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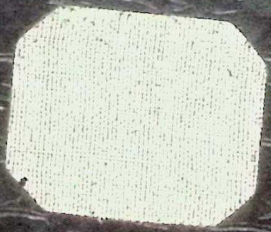

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(Bharati—Utkal University Journal-Humanities, Vol. VIII July 1974 No. 14)

SOME ASPECTS OF SIR GEORGE CAMPBELL'S ADMINISTRATION IN ORISSA.

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The years of Sir George Campbell's Lieutenant-Governorship (1871-74) were a time of intense activity. No one of his predecessors worked so hard and with such an alert mind, extraordinary energy and great ability as did Campbell during the 37 months of his regime in the Bengal Presidency. And it is also a fact that with such rare qualities he proved to be one of most popular and successful Lieutenant-Governors of that period. C. E. Buckland of the Indian Civil Service observed : "The new Lieutenant-Governor's energy, ability and masterfulness was soon felt throughout the Province. There had not been before, and there has not been since, such a period of active reform as the 37 months during which he administered the Local Government."[1]

No one was more fitted then he to guide the destinies of Orissa which was not new to him. He was the indefatigable President of the Commission of Inquiry into the Orissa Famine of 1866-67. The whole system of British Administration in Orissa came prominently and unfavourably into his notice in this connection.

Famine Commission of 1866-67 :

In 1866, Orissa was visited by a famine of most intense desolating character. Its severity was so terrible that about a third of the population died. The Famine Commission presided over by Sir George Campbell was appointed by the Government to enquire into the causes of this famine and to suggest measures for prevention of famine in future. Referring to the extreme severity of this Orissa Famine, Sir George Campbell remarked : "We were shocked by the human remains we saw all around. From an Indian point of view the area of very intense famine was rather small, being confined to a few millions of people; and the period of intensity was short, being no more than a single half year. Put within these limits, it was, I think, by far the most acute famine experienced in any part of India in the present (19th) century".[2]

1. C. E. Buckland, Bengal under the Lieutenant-Governors, Vol. I, p. 484.
2. Sir George Campbell, Memoirs of my Indian Career, Vol. II, p. 149.

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The Famine Commission pointed out that one of the main causes of the Famine of 1866-67 was certain inherent defects in British administration in Orissa. The executive had little contact with the mass of the people and knew little about their material condition. They did not pay any heed to construction of public works. Orissa was administered, according to the Commission, "judicially and not by executive power. The executive reigns but does not govern. It has little executive machinery and it may be said that it, on principle, avoids intereference with the affairs of the mass of the people." It further stated that "the system of administration caused a defect of information and an unwillingness to take direct action on the part of the Government, which materially retarded measures of relief and which could not have occurred in any part of India."[3]

The Famine Commission recommended certain measures to be adopted for preventing famine in future. They included the necessity of efficient means of communication, extension of irrigational works, the advantage of security of tenures for cultivators etc.

As the immediate consequence of famine and Commission of Inquiry, Government had to reorient its policy. Henceforth they followed a policy of adopting a more active system instead of the old laissez-faire, with a more contact with the people. The practice of holding detailed and systematic enquiries as a preliminary to the action by the Government was instituted. Comprehensive inquiries and compilation of statistics became the basis of subsequent Government. Much greater attention was paid to the material and moral improvement of the people of Orissa.[4] Thus, as the President of the Famine Commission of 1866-67, Sir George Campbell rendered valuable and meritorious services to administration of Orissa. It is fortunate for Orissa that he should, as Lieutenant-Governor, be in a position to adopt measures in the interest of her people.

Introduction of Road Cess :

He assumed the charge of the Government of Bengal in March 1871. The first important measure with which he had to deal was the introduction of the District Road Cess. The Famine Commission of 1866-67 had laid great stress on the improvement of the means of communication as an fmportant famine-preventive measure. Sir George Campbell

3. Report of the Commissioners appointed to enquire into the Famine in Bengal and Orissa, Vol. I, paras 410-415.
4. L.S,S. O' Malley, History of Bengal, Bihar and Orissa under British rule, pp. 451-455.

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determined to carry out this reccommendation without delay but financial difficulties came in the way. Therefore, the Act X(B.C.) of 1871 was passed to provide for local rating for the construction and maintenance of roads and other means of communication in Bengal.

The Bengal Road Cess Act of 1871 came into force in three districts of Orissa between 1871 and 1873. It imposed rates on lands, houses, mines and other immovable property. The houses below a certain value were exempt from the road cess. The houses of those who paid as landholders or ryots were also exempt if they had no other calling or profession. The Act provided for the establishment of a local body in each district, either nominated or elected from among the rate payers. They were to ascertain the needs of districts and localities in regard to roads, canals, and other means of communication: to bring on their books all roads etc., which it was thought desirable to maintain as local public comminications; to determine the work to be undertaken in the current year; and to strike a rate for the year to meet the necessary expenditure on the whole immovable property of the district. This rate was, in no case, to exceed ½ anna in each rupee of the net profits of the landholders and other owner, that is about 3 per cent. The valuation was to last for 5 years, and to be aubject to revision at the end of that period. A special Deputy Collector with suitable establishment was entrusted to carry out the details in each district.

When the rate was fixed in each district, a proclaimation was issued and circulated broadcast, with a view to make the amount of the cess payable by the ryots generally known and understood. All persons assessed to the road cess were informed, and assured by the Government "that every pice levied under the Act will be spent in the district in which it was is raised, to improve the local roads, canals, and rivers in the district for the benefit of the inhabitants; nothing will be diverted to any other purpose than that which the law directs."[5]

Towards the end of his time, Sir G. Campbell recorded that the working of the Road Cess Act had been a complete success. There had been no great difficulty in the valuations which had been effected with ease and absence of friction. Collections had been commenced without hindrance. The construction and maintenance of roads and water-channels was making steady progress.[6]

5. Quoted in C. E. Buckland, Bengal under the Lieutenant-Governors, Vol. I, p. 491,
6. Report on the Administration of Bengal, 1873-74, p. 483

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Reform of the management of Canal-revenue :

Up to 1872, the water-rates have never reached an amount much in excess of the receipts from navigation, and in fact, had scarcely paid the expenses of collections. This fact sufficiently indicated the low degree of development which the irrigation had yet attained in Orissa.

The main cause of the backwardness of the people to avail themselves of the advantages of irrigation was assigned to a want of appreciation of the value of water on the part of the cultivators. They doubted its value at the price charged for it and resorted to it only to save their crops at the time of drought, rather than as a means of increasing the productiveness of the soil. Other cause producing the same effect was that the cultivators feared not the increase in taxes likely to be made by the Government but the increase which would certainly be made by the zamindar on the ground of increased productiveness due to irrigation.[7]

Besides, the rates had always been too high to induce the people to take water on a large scale. Due to constant changes and fluctuations in the water-rates, the people never knew any year what the rate would be next. They had seen more than once that the rate even changed in the course of the same year.

The defective system of revenue management was also attributed to the financial failure in irrigation matters. Firstly because written agreements or leases were not always insisted upon. The leases were usually given to one person, such as a zamindar, while practically the revenue officer had to deal with another, the ryot. The revenue could only be realized from the zamindar on proof that the ryot took water, which proved difficult for any revenue officer to establish.

Secondly, the leases were always for indefinite areas, "for as much land as should be found on measurement to have been irrigated". In the absence of any engagements on the part of the cultivators, it was often found practically impossible to prove the voluntary receipt of water, or even that any water was received at all.

Thirdly, owing to the incompleteness of the minor distributaries, there were in most cases no proper means of leading the water from the distributary to the land to be irrigated, and it reached it by flowing from field to field, causing great waste and the irrigation of lands for which nothing was paid.[8]

7. Ibid, 1871-72, p. 255.
8. Ibid, p 269.

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Sir George Campbell felt necessary to establish a stable system to put the revenue arrangements on a regular footing and to regain the confidence of the people. In this endeavour a great deal of discussion ensued regarding the nature of the water-rate.

When it became clear that there were no more signs of the general adoption of irrigation by the people than before, its success under any system which left it optional for the cultivators to take water or to refuse it, began to be doubted. The compulsory rating was recommended by T. E. Ravenshaw, the Commissioner of Orissa, as the only effectual way of dealing with the case. V. H. Schalch, the Senior Member of the Board of Revenue, supported Ravenshaw's view. He said that Oriya ryots were too ignorant and prejudiced to avail themselves of the irrigation offered to them. Therefore, they should be made to contribute, by means of compulsory assessment, to the cost of works constructed for their exclusive benefit. He did not think that such a measure would be unpopular.

In opposition to the views of Ravenshaw and Schalch, Macpherson, the Collector of Cuttack, strongly urged the following facts. The voluntary system had not as yet had a fair trial. Its failure was due solely to mismanagement, and not to any intrinsic defects or unsuitability. The causes of its ill success were patent, viz., an entire absence of fixity rates and of any uniform principle of sale of water and assessment, an unfortunate attempt to force irrigation in advance of proper means of distributing the water, and want of popular appreciation of its value. By removing these defects and giving the system at least a fair and sufficient trial, Macpherson argued that different results might be expected. He suggested that after a certain period, if the people still obstinately held back, a compulsory rate might be thought of.

A third proposal was brought forward by the Chief Engineer. He did not propose the imposition of a water-rate but the payment of a rate to be paid whether water was taken or not. The ryot who refused canal water in ordinary years, and only resorted to it in seasons of exceptional drought to save his crop, was nevertheless, it was argued, in enjoyment of all other collateral advantages, viz., protection from inundation, security against famine, drainage, and cheap carriage to good markets. To let him be untaxed, and to throw the whole charge upon his more intelligent neighbour who made a regular practice of irrigation, would be inequitable. Advantages enjoyed by all should be paid for by all. Common justice

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required that the whole burden should not be thrown upon one particular class. This plan was said to be the only method of securing to the state its just dues.[9]

Some decision between these contending theories of taxation was urgently called for. In a minute dated 12 December 1872, Sir George Campbell, the Lieutenant-Governor, reviewed the whole situation. He concurred with the views of Macpherson. He decided that the system to be pursued should be purely voluntary, and directed that a proper set of rules should be drawn up to remove the defects of revenue management.

A committee consisting of the Commissioner, the principal revenue officers, and engineers met for this purpose at Cuttack in the spring of 1872. The rules recommended by them received the sanction of the Lieutenant-Governor and the Government of India, and were introduced towards the close of 1872. The following were the principal points in the new system.

A system of annual block lease was introduced. The rate for rice was Re. 1-00 for every acre in the block and for the water supplied on a written lease executed not later than 1 May, i.e., before the commencement of the irrigation. The water-rate was to be fixed for five years.

Penalty rates were introduced to check the practice of taking water only to save the crop in times of drought. The rate charged for water on leases given after the 1 May was 50 per cent higher than the regular rate. The idea of selling by volume was given up.

The supply of water on verbal application was absolutely prohibited. A formal written application was insisted upon in every case.

The Revenue Officer was to deal directly with each indiuidnal ryot, unless a special bargain was made with the zamindar. Each ryot would execute a lease for his own fields.

A lease would never be granted until it had been previously ascertained by careful inspection that the land for which it was bought was bonafide irrigable land, i.e., there existed the means of leading water to it without overflow into other lands.

The leases were meant for definite areas. The payment for the full area leased was insisted upon, unless the lease-holder could show that there had been a failure of water-supply. Such failure must be proved at the time it occurred.

9. Report on the Administration of Bengal, 1871-72, p. 265.

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On the introduction of the new system, Sir George Campbell expressed his opinion : "From the new system better results may be anticipated, though the progress of irrigation will probably still be small slow, and the time when the canals shall prove directly remunerative may be yet distant."[10]

The new rules worked satisfactorily though the area irrigated was still very small. George Campbell said : "Under a revised system and improved free-trade management, harmony and confidence have been restored; but still the difficulties resulting both from the tenure of the land and the unwillingness of the people to pay for water till reduced to extremity by failure of the rains, are so great that we have not succeeded in getting voluntary customers, except to an extent ridiculously disproportioned to our expenditure and our works."[11] Experience, however, did not show any substantial increase in the irrigated area.

Illegal Exaction by the Zamindars :

Inquiries conducted by orders of Sir George Campbell made it clear that, inspite of the positive prohibitions of the law, the landlords were in the habit of levying, on various pretexts, on their tenantry a great variety of cesses, in addition to the payments due from the latter. It showed that in some places the exactions of the zamindars had reached the limit of most serious oppression, while the people had not the strength or the intelligence to assert their rights.[12]

The rural population in Orissa were absolutely and entirely ignorant of law or of their rights. Even where they might know that these demands were unauthorised, they were too weak, indolent, or timid; to make any complaint. T.E. Ravenshaw said : "Our laws, rules, acts and penalties were known only to a few of the hangers-on about the courts, and to a certain degree among the more educated and advanced zamindars; below this upper crust, the force of custom and dustoor is mofussil law, and it is now little in advance what it was in the time of Mahrattas. It is a painful fact, that notwithstanding our detailed settlement fixing the rent of every field to be paid by the ryots to their zamindars, and the revenue payble to Government by the zamindars, such gross abuse should be possible; and in the face of daily increasing direct taxation, I think it a duty we owe to the people to

10. Ibid, pp. 268-270
11. Introduction to Bengal Administration Report, 1872-73, p. 32
12. Report on the Administration of Bengal, 1871-72, pp. 26-28.

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put a stop to these unauthorised casses."[13] He recomended "that in order to afford protection to the ryots of these estates, and to act as a warning to other zamindars, they may be taken over on the ground that the Settlement Compacts with the zamindars have not been adhered to, and that their misconduct has rendered them unfit to continue to manage the estates."[13]

While concuring in the views of the commissioner, the Board of Revenue commented: "This remedy, though undoubtedly severe for a determined and presistant disobedience of the law, and for continued exactions from, and oppression of the ryots whom the proprietor is bound to protect, or at all events to treat with a due regard to existing laws."[14]

Sri George Campbell, the Lieutenant-Governer of Bengal, after full consideration of the report of the Board of Revenue, came to the conclusion that in Orissa some special measures were necessary for the protection of the ryots and for the punishment of those zamindars who were shown to have most flagrantly violated the law. He recommended the following remedial measures for adoption; (1) three proprietors in Orissa (two in Balasore, and one in Puri) should be deprieved of the management of their estates under provisions of Section 3, Regulation VII of 1822; (2) a field survey for irrigation purpose should be nstituted in Orissa; (3) the field survey should be combined with a recordal of rights.[15]

The Governor-General in Council declined to sanction the special measures recommended by the Lieutenant-Governor for the protection of Orissa ryot.[16] The Secretary of State agreed with the Government of India[17]

Consequently, levy of illegal cesses, in addition to rent, continued to prevail more or less throughout the province. The ryots rarely objected to the payment of such customary cesses as long as there was no tension. It was one of the main causes of the sufferings and impoverishment of the Oriya ryots.

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13. Bengal Revenue Proceedings (Land Revenue), Decembar 1871, No. 41, Commissioner of Orissa to Board of Revenue, No. 218, 11 September 1871.
14. Ibid, December 1871, No. 42, Board of Revenue to Government of Bengal, No. 225A 12 November 1871
15. Ibid, February 1875, Secetary of State for India to Government of India, No. 9, 19 March 1874.
16. Ibid, Government of Bengal to Government of India, No 351, 12 February 1874.
17. Ibid, Secretary of State for India to Government of India, No. 9, 19 March 1874.

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The Code of Criminal Procedure of 1872

Another important event of the regime of Sir George Campbell was the introduction of the new code of criminal procedure. It came into force on 1 January 1873 in Orissa. One of the most important novelties in the Code was the power of summary trial in certain classes of cases, such as, petty theft, house tress-pass, rioting, and assault etc. This power was conferred on the District Magistrate. It was also provided that it might be specially conferred on first class Magistrates or on Benches of Magistrates. Such a course was calculated to win the public confidence.[18]

In accordance with this provision, rules having the following objectives were framed. The Benches consisting of a salaried Magistrate with not less than second class powers sitting with two or more Honorary Magistrates were to be conferred with powers of the first class and the highest summary powers. A salaried Magistrate of any grade sitting with two or more Honorary Magistrates were to be conferred with powers of the first class and the highest summary powers. A salaried Magistrate of any grade with one Honorary Magistrate would have inferior summary powers. Two or more Honorary Magistrates sitting together were to be vested in towns with summary powers in municipal cases and like cases only.

In pursuance of these rules, Benches consisting of a salaried Magistrate and more than two Honorary Magistrates were formed in Puri and Cuttack in 1873, and were vested with the power of holding summary trials.[19]

When the system of summary trial was introduced, the Government was not without apprehension that while it would be undoubtedly attended with many advantages, it was still liable to partial failure. It might in some cases result in trials being held in a hurried and imperfect manner. The Government, therefore, in introducing the system deemed it necessary to proceed with care and caution.

Those officers who were shown to be of proved experience were vested with the power of holding summary trials. At the same time, the District Magistrates were required to exercise a careful supervision over the proceedings of their subordinates, and to bring to notice all instances in

18. Report on the Administration of Bengal, 1872-73, p. 115.
19 Ibid, pp. 115-117.

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which the powers of summary trial were indiscretly exercised. Similarly, the Commissioner was required to examine when on tour the files of each court and to submit periodical reports on the manner in which the powers conferred on the several officers within their respective jurisdictions had been exercised.

The reports of the Commissioner of Orissa had shown that by 1876 the summary provisions of the law had been worked successfully. The proceedings of all officers had been carefully watched. There had been a marked absence of any complaints. The system had resulted in the greatest possible convenience to the public as well as to judicial officers. The people had their complaints disposed of rapidly and without involving the necessity of irksome and prolonged attendance at the courts. The judicial officers had been enabled to devote more of their time to duties of greater importance than the disposal of petty criminal charges.[20]

Promotion of Primary Education

The most memorable achievement of Sir George Campbell was the promotion of primary education. The education of the masses did not receive a real impetus till 1872 when he took up the question and gave practical proof of his declaration that the great object was to extend primary education among the masses of the people.[21]

In1872 the indigenous pathshalas were numerous. Writing on those uninspected primary schools, the Deputy Inspector of Balasore said :

"In a length of time extending over 10 or 12 years the children learn to read ,write, and to know a little of simple arithmetic. The method of imparting instruction by the teacher instead of developing the mental qualities of the children. invariably spoils where it can not destroy those qualities. The relation of an abadhan to his pupils, insted of being that of a father to a child, is made to be that of a task-master to a slave, the endeavour of the one being as much to scourge as is that of the other to deceive and avoid. When a poor boy has not been able to understand something (because it is difficult) or has not been able to commit a sanskrit sloka to memory, woe unto him ! he is lashed mercilessly. The influence of an indigeneous teacher is very vitiating, and it should be our endeavour to reclaim these professional enemies of the country.[22]

20. Ibid, 1875-76, p. 90
21. L S.S. O' Malley, History of Bengal, Bihar and Orissa under British rule, p. 761.
22. General Report on public Instruction in Bengal, 1871-72, p. 377.

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Sir George Campbell made substantial attempt to establish a good system of primary education of the simplest character. The aim of his scheme was the extension of primary instruction by subsidizing village pathshalas by monthly grants. The Lieutenant-Governer did not think it necessary to employ highly trained masters on higher salaries. He rather wanted to give money as a grant-in-aid to "men of the purely indigenous school master class." But each was required to keep up a school according to local standards, and submit it to inspection and examination. For such purpose an allowance of Rs.2/- or Rs.3/- per month was considered sufficient, especially in places where the village or land lord or other party interested was willing to make up the reminder of the necessary Rs. 5/- pathashala grant. Where no such aid was available, and where the people were poor and backward, a large government grant might be given, but no grant to a village school was to exceed Rs. 5/- per month. With such a basis, and some receipts from fees or gratuities, a village school was to be established.

The scheme provided for the agency by which the new the primary school grant could be spent to the best advantage. This task was entrusted to the District Magistrates and Sub-Divisional Officers. They were to be aided and advised by regularly constituted District School Committees.[23]

Since a large number of school would come under the control of the department, the Lieutenant-Governor felt necessary to strengthen the Inspecting Agency. A Joint-Inspector was appointed for Orissa in 1873 to assist the Inspector of schools, Western Circle, in controlling the educational affairs of the division.[24] Instead of two Deputy Inspectors, three Deputy Inspectors were provided for three districts. A Sub-Inspector was attached to each sub- division of a district. Thus the primary educational system was brought under more careful and systematic attention.[25]

The object of the Campbell's scheme of primary education was not only to extend, but also to improve the primary schools of the country. There was a large class of indigenous school-masters. Their modes of teaching were primitive and in some respects clumsy. The scheme

23. Repart on tne Administration of Bengal, 1872-73, pp. 156-160.
24. Annual General Administration Report of the Orissa Division, 1872-73, p. 500.
25. General Report on Public Instruction in Bengal, 1875-76, p 109.

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provided for the establishment of Normal Schools to impart training to them.[26] Accordingly two Normal Schools were established in Balasore and Puri in 1874.[27]

In carrying out the new scheme, much opposition was encountered. The attempt to bring indigenous pathshalas under subsidy and supervision gave rise to misconception on the part of the people. Prejudicial rumours were in circulation regarding the designs of the Government.[28] In spite of the initial opposition, it was declared on all hands in course of time that the progress of primary education was highly satisfactory. In 1872 out of 4,364 pathshalas only 182 with 1710 pupils were subsidised.[29] In 1874 the number of subsidised pathshalas rose to 832 with 15,497 children.[30] In 1875 there were 868 aided pathshalas with 16,434 pupils.[31]

Though the wisdom of spending large sums of money in subsidizing pathshalas was recognised, yet the new system was not free from drawbacks. The greatest drawback was that the people refused to pay their usual fees to those gurus who received aid from Government. In order to prevent this evil, the so-called Midnapore system, or the system of payment by result was introduced in Orissa in 1877. Another defect was that the system aimed at quantity, not quality. In order to remove this defect, an improvement in the curriculum was effected in 1875.

Conclusion

Sir George Campbell's term of office came to an end in April 1874. It was his extremely bad health which forced him to resign the office of the Lieutnant-Governer of Bengal. A contemporary author wrote of him : "His Governorship represented a virtual revolution, succeeding that of Sir William Grey. It was a change from the desk management to root and branch administration, resting on fixed and matured views as to political principles underlying action."

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26. Report on the Administration of Bengal, 1872-73, pp. 156-160.
27. General Report on public Instruction in Bengal, 1873-74, p. 62
28. Report on the Administration of Bengal, 1872-73, p. 428.
29. General Report on Public Instruction in Bengal, 1873-74, p. 20
30. Annual Genel Administration Report of the Orissa Division, 1873-74, para 96.
31. General Report on Public Instruction in Bengal, 1875-76, para 170.
32. Ibid, 1873-74, pp. 20-21.
33. Annual General Administration Report of the Orissa Division, 1876-77, para 103.
34. General Report on Public Instruction in Bengal, 1875-76, para 200.
35. Quoted in C.E. Buckland, Bengal under the Lieutenant-Governors, Vol. I p.571.

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He had done very useful service in Orissa. His greatest laurels had been won as President of the Famine Committee. He introduced the levy of a very light tax on the people, known as District Road Cess to push on development of means of communication. He had deep sympathy for the oppressed ahd afflicted. He realised that illegal exactions of the zamindar reduced the Oriya ryots to grinding poverty and miseries. He made serious efforts to protect them against the tyranny of the zamindars. He took all possible steps to popularise irrigation and to make the Orissa Irrigation project financially a success. His achievement in the field of promotion of primary education is remarkable. He developed a system of education for the very poor, a really honest public spirited project. Thus it can not be denied that he succeeded in infusing much life and vigour in the adminisation where a stimulus greatly required. The period of his benevolent rule formed an epoch in the history of Modern Orissa.

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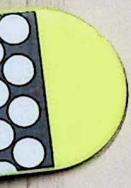

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RECRUITMENT OF GURKHAS IN THE BRITISH INDIAN ARMY ITS EARLY HISTORY

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The recruitment of the martial tribes of Nepal,[1] commonly known as Gurkhas,[2] in the Indian army has always been a major factor in the Indo-nepalese relation. The subjects of a foreign country, the have earned they have earned for themselves a permanent place in the Indian army. No loyalty to India has ever been the impulsion to their service in the Indian army; their motive has always been mercenary and economic, yet they have exibited a kind of martial fidelity to their employers rarely found in case of other mercenary military races.[3]

The ward 'Gurkhas' needs an explanation. It is derived from the from the place-name 'Gorkha' about fifty miles to the west of Kathmandu.

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1. On recruitment of Gurkhas in the Indian Army see K. Mojumdar, "Recruitment of Gurkhas in the Indian Army (1814-77)", Journal of United Service Institution of India (New Delhi) April-June, 1963 pp. 143–53.

2. On Gurkhas see *Encypedia Americana*, Volume 13, p. 575, *Encyclopaedia Britannica*, Volume 10, (London 1966), p. 1046, G. R. K. Gibbs, *Gurkha Soldier* (Calcutta, 1944) p. 5, U. K. Ministry of Defence, *Nepal and Gurkhas* (London, 1965) pp. 45 46, John Pemble, *The Invasion of Nepal, John Company at War*, (Oxford 1971) pp. 6-15, Eden Vansittart, *Gurkhas* (Handbook for the Indian Army), (Calcutta, 1915) p. 46, C. Von.Furer Haimendorf, *Cast and Kin in Nepal, India and Ceylon*, *Anthropological Studies in Hindu-Buddhist Contact Zones* (Bombay 1966) pp. 11-18, Francis Hamilton, *An Account of the Kingdom of Nepal and of the territories annexed to the Dominions by the House of Gorkha* (Edinburgh, 1819) pp. 18-27, Francis Tuker. *Gorkha* (London N. D.) pp. 26.35, Brian Houghton Hodgson, *Essays on the Languages, literature and Religion of Nepal and Tibat, Part II* (London, 1874) pp.37-41, Fr. M. Hermanns, *The Indo-Tibetans* (Bombay, 1954) pp. 7-26.

3. On the loyalty of Gurkhas see Tuker, Op. Cit., pp. 90-94, Vansittart, Op. Cit., p-61.

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Originally, the martial tribes-Khas,[4] Thakur,[5] Magar[6] and Gurung[7]- who were enlisted in the army of the Kings of Gorkha, a small princedom in the 16th-18th centuries were known as Gurkhas. It was these martial tribes who, in the third quarter of the eighteenth century helped the Gorkha King Prithvinarayan Shah[8] in conquering the large number of small states that dotted the land and welding out of them the modern Kingdom of Nepal. It was during the Anglo-Nepalese War 1814-16 that the British Government was impressed with the desperate valour of these men and started enlisting them.

In cource of time a few other Eastern Nepalese tribes such as Rais, Limbus, Sunwars and Murmis came to be recruited in the British Indian army. Now all of them are called Gurkha material tribes.

The British and France had come to India as traders. Ultimately they acquired territories and emerged as political powers. They found it increasingly difficult to maintain their possessions with a hand full of European troops. They realised the necessity of employing Indian soldiers trained in the European manner.[9] Besides, "if the British were to govern Indian with the good will of Indians", felt the East India Company, their army should have roots among the native people.[10]

Initially, the indians were employed as the watch-keepers in the factories of the Europeans-particularly the British and the French. But when

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4. Khas is a caste which belongs to the second order of Hinduism and a product of the Union of the Indo-Aryan Kshatriyas and the Mongolian hill tribes of Nepal. Khas is otherwise known as Cherti. See book in fn. 2 above.

5. Thakur is a caste belonging to the second order of Hindusim. The ancestors of Thakurs are said to be the Indo-Aryan Kshatriyas. The ruling Shah dynasty of Nepal belongs to this caste. See books in fn. 2 above.

6. A Mongolian hill tribe.

7. Also a Mongolian hill tribe.

8. Tuker, Op. Cit., pp 45-55, D. R. Regmi, *Modern Nepal* (Calcutta, 1961) pp. 43- 101.

9. On the British Police of recruitment see Donovan Jackson, *India's Army* (London N.D.) pp. 1-8, John Williams, *The Bengal Native Infantry* (London, 1817) p, 4, Amiya Barat, *Bengal Native Infantry : Its Organisation and Discipline* (Calcutta, 1926) pp. 1-52.

10. George Mc Munn, *The Martial Races of India* (London, N.D.) p. 171.

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they started contending for supremacy, they felt the necessity of recruiting Indian soldiers. It was the french who first employed Indian soldiers in their contest with the British. The British soon followed them. They organised three great Presidency armies of Bombay, Madras and Bengal, manned by Indian soldiers but commanded by a nucleus of British and European Officers. The efficacy of the recruitment of native soldiers was vindicated in the defence of Arcot by 200 Europian soldiers and 300 Indian soldiers under the leadership of Robert Clive.

Clive's victory in the battle of Plassey definitely established the East India Company as the de facto authority of a vast stretch of territory. Thereafter the Company embarked upon a career of conquest and aggrandizement in which Indian soldiers led by British and European commanders fought against those powers who menaced the Company's position. For its constantly increasing territorial possessions the Company started recruiting for its army men from the troops and subjects of defeated Indian states, of course, the loalty of the troops so enlisted was not always above suspicion. Thus, military conquest and and expansion of the native ranks of the army went on simultaneously and proved to be mutually complementary. Prior to its encounter with Nepal in 1814—16, the company had successfully dealt with the great Indian powers like Carnatic, Mysore, Marathhs, Hydrabad Oudh and recruited in its army the people of various castes and classes-Moplahs, Moors, Muslims, Telingas, Tamils, Rajputs and Brahmins. The assimilation of the two other important martial tribes, the Gurkhas and the Sikhs in to the British Indian army was likewise made possible by military encounters with them in the later years.

The Anglo-Nepalese War of 1814—16, though ostensibly a conflict precipitated by border-diputes, was really a conflict between two expanding military powers- the British and the Nepalese.[11] Despite their natural bravery, reinforced by the geographical advantages offered by their country, the Gurkhas were ultimately overpowered by the British Indian army, numerically stronger, superior in strategy and arms. But one of the outcomes of the war was the mutual appreciation between the British generals and soldiers and Gurkha soldiers. As a result, many Gurkhas deserted the Nepalese army to join the ranks of the British Indian army. The war revealed to the British generals the "limitations of Indian troops" and the martial qualities of the Gurhkas. About the role of the native sepoys in the war an Englsh eye-witness observed.

11. For causes of the Anglo-Nepalese War see Pemble, Op, Cit., pp. 30-50

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"A native soldier of whatever rank, has no heroisim and he is ignorant of honour in every acceptation of the word. Without owing natural intelligence, or having any incentive to serve us, less ignoble than his pay, he is in our hands no better than a living machine.[12]

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Considering the repeated success of the enemy during this war, with the external confederacy and intestine commotions which were endangered by the hope of overthrowing the British power the issue of no action was more important to our Indian empire. The conduct of the native solidiery, in such a crisis, becomes a subject of the highest interest...the physical mass of the army bent or broke like a useless weapon, whenever a blow was to be struck. The victory is therefore attributable not to it, but to the hands by which it was weilded. The general owed the execution of his designs entirely to the unwelding resolution of the officers; qualities which were conspicuously manifested when they had to keep their ground and throw up fortifications in the face of a victorious enemy."[13] But then, the native soldier had hardly any experience of mountain warfare. So the war revealed not so much the "backwardness" of the native soldiers as the "intrepedity" of Gurkhas. Major General David Ochterlony, the able Commander of the successful campaign of the Anglo-Nepalese War observed, "The Company's sepoys could never be brought to resist the shock of these energetic mountaineers on their own ground".[14] Another observer remarked, "We have met with an enemy who shows decidedly greater bravery and greater steadiness than our troops possess".[15] The Gurkhas were described as "a healthy and energetic race of Asiatic Britons, ready to afford support and succour to the government of the plains".[16]

Loyalty being the main characteristic of the Gurkhas, their desertions from the Nepalese army for enlistment in the British army may appear rather strange. This needs an analysis of the character and composition of the Gurkha army with which the British army had to fight.

12, See Anonymous, *Military Sketches of the Gurkha War in the years, 1814, 1815, 1816,* (London, 1822) Introduction.

13. Ibid, page 31.

14. Confidential letter from Ochterlony to Lord Moira, Quoted in Vansittart, *Notes on Gurkhas*, p. 20.

15. Mamo of Charles Matcalfe to Lord Moira, Quoted in E. Thompson, *The Making of the Indian Princes*, p. 192.

16. Anonymous, *Military Sketches of the Gurkha War*, Op. Cit., p. 35.

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Out of the four divisions of Company's army despatched against Nepal, two were to attack Nepal from the west- the division under Major General Gillespie was to penetrate the passes of Dehradoon and occupy Garhwal, and the division under Colonel David Ochterlony was to attack the Gurkha field army under Amar Singh Thapa, the Gurkha General who was in charge of the western part of Nepal lying between the Jumna and the Sutlej. On the west these two divisions had planned to occupy those areas like Sirmoor, Hindur, Bilaspur and Basapur (which lay between the Jumna and the Sutlej), Barathakuri, Kotoch, Garhwali and Kuman. The people of these states which had been conquered by the Gurkhas as late as between 1798 and 1803 were seething with discontent against their new masters. The Gurkha militia in these areas had recruited quite a considerable number of local soldiers, particularly Garhwalis,[17] Kumauris[18] and Sirmooris.[19] These men had no loyalty to the Gurkha Government and had joined the Gurkha army being guided by purely mercenary motives. When the defeat of the Gurkha army seemed imminent, they chose to desert the Gurkha ranks and join the victorious British army.

The Gurkha army fighting the British, officered by Gurkha Chetris, was mainly composed of the Garhwalis, Kumaunis, Magars and Gurungs. The Magars and Gurungs had no instinctive loyalty to the Gurkha Government. They were considered to be inferior in caste status by the Gurkha Chetris who dominated the Nepalese Government. Originally, they were not enlisted in the Gurkha army. They had been enlisted only half a century ago by King Prithvinarayan Shah and had proven their worth as excellent fighting men. Until the Anglo-Nepalese war their martial feats had mostly been confined to Nepal. After this war they were recognized by the British "as soldiers of a race apart";[20] they started seeking fortunes in the British army.

During the course of the war a large number of irregular troops were raised in the hill states of Sirmoor, Garhwal, Hindur and Kumaon as auxiliaries to the company's troops. Besides, nearly 4,650men had deserted the Gurkha army. It was out of the irregulars and deserters rnd the Gurkha prisoners of war and the wounded nursed back to health in the British hospitals that four Gurkha batalions were formed at the end of the war.

17. People of Garhwal.
18. People of Kumaun.
19. People of Sirmoor.
20. David Bolt. *Gurkhas* (London, 1967) p. 59.

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The British military authorities found it dificult to conduct the warfare in the mountainous regions of Western Nepal and decided early in the war to raise irregular troops in the hill states as auxiliaries to the Company's troops. The raising of irregular troops was found not difficult, for it was seen that the people and rajas of the hill states, who had been recently subjugated by the Gurkhas joined hands with the British in the war against the Nepalese Durbar. This task of raising irregular troops was assigned to W.B.Fraser, the Assistant to Metcalfe, the Company's Resident at Delhi, who was now to act as the Political Assistant attached to the division under Major General Gillespie and later to that under Major General Martindell. Fraser was instructed "to endeavour to excite the inhabitants of the districts of Garhwal," against their Gurkha master. His second and most important task was to raise irregular troops in Garhwal who would cut the line of communication between Malaun where the Gurkha General Amar Singh Thapa lay encamped and Kathmandu, the Gurkha capital.

The war with Nepal began on 1st November, 1814. Major General Gillespie soon died in action after his debacle in Garhwal. Major General Martindell upon whom now fell the mantle of Gillespie pushed on to Sirmoor. There he suspended all operations pending the arrival of reinforcements and guns at Nahun. Fraser,his political assistant was exasperated at what he resented as gross procrastination on the part of Martindell. Vexed, he decided to form a "partisan army"[22] out of the spirited anti-Gurkha inhabitants of Northern Sirmoor. The irregular corps so raised by him, over 4,000 strong, was placed under the commond of Lieutenant Frederick Young. However, most of the irrequlars subsequently deserted Lieutenant young who was also imprisoned by the Grukha army. On being asked by the Gurkhas why he had not fled with his men, the gallant young officer replied that he had not come so far just to run away. Delighted at this bold reply, the Gurkhas told him, "we could serve under men like you".[23] They treated him well and taught him the Nepali language. After his release Young recruited 3,000 Gurkhas from prisoner-of-war camps in Dehradun and Nahun. Besides, during the military operations in Garhwal and Sirmooor about 500 Gurkhas had deserted the Nepalese ranks and come over to the British. These deserters provided "willing ahd invaluable

21. L. W. Shakespeare, *History of the 2nd King Edward's Own Goorkhs Rifles*, (London) 1912) p. 2.
22. Pemble. Op. Cit., pp. 184-185,
23. Bolt, Op. Cit., p. 60.

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instructions"[24] to the British military engineers in the art of buildieg stockades. About them Fraser remarked: "I am of opinion that they will be found trustworthy and faithfull, and always a hard-working and serviceable body".[25] It was out of these irregulars, deserters and the prisoners of war in Simoor that the future Simoor battalion was organised.

Since the native corps under Ochterlony, too, were found hopelessly outmatched by the Gukhas in tht mountain warefare, he was also authorized by the Government to raise in the hill states irregular corps who would be engaged to harass the enemy. His subordinate Lt. Robert Ross, of the 6th infantry was entrusted with this responsibility. Ross comma nded about 2,000 auxiliary troops of the friendly Raja of Hindur and a number of Nepalese soldiers, who had started deserting the Gurkha ranks from the very beginning of the war.[26]

At the beginning of April, 1815, before the fall of Malaun,[27] which finally forced the Gurkha General Amar Singh Thapa to surrender, there were 324 Gurkha deserters in the British camp fighting against their erstwhile master. They were called the 'Nassiri' Gurkhas. In the war against Amar Singh Thapa they impressed the British officers by 'the closeness of their files' and 'perfect silence', both maintained over the most difficult ground.[28] They had also impressed Ochterlony by their indefatigable industry and courage and eagerness to please him. He decided to form them in to a battalion of three companies. He remarked, "I shall with the sanction and approbation of His Excellency call it "Nasiri (friendly) pattan", and consider myself their commandant and patron. These trifles have great weight; and I must confess myself sanguine in my hopes of their not discrediting my favour".[29] It was this corps which formed the nucleus of the regiment later called the first Gurkha Rifles.

With the successful blockade of Malaun, there began a steady flow of deserters, until Amar Singh was left with only 200 troops. Finding the walls of Malaun crumbling under the two brass twelve-pounders and his men deserting the ranks, Amar Sinhg finally submitted to Ochoterlony, his

24. Pemble, Op. Cit., p. 203.
25. Ibid, p. 204.
26. F. Lorrain-Petre, *1st Kan7 George's own Gurkha Rifles*, (London, 1925) p. 9.
27. A Fortress.
28. Pemble, Op. Cit., p 275.
29. Ibid,

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conqueror. One of the terms of the capitulation was; "All the troops in the serivce of Nepal with the exception of those granted to the personal honour of the Kajees Ummer Singh and Ranjor Singh, will be at liberty to enter into the service of the British Government, if agreeable to themselves and the British Government chooses to accept their services and those who are not employed will be maintained on a specific allowance by the British Government till peace is concluded between two states".[30] Amar Sing accepted it.

While Ochterlony was engaged in besieging Malaun, the invasion of Kumaun was being undertaken by Lt. Colonel William Gardner in right earnest. With his irregular corps, he entered Kumaun on 15 February, 1815. Begun by Gardner, the "rapid and glorious conquest of Kumaun was finally accomplished by Colonel Nicholls, On 27 April, 1815, Almora, the headquarters of Kumaun fell to the British troops.

Soon after the fall of Kumaun, the defeated troops of the Gurkha Governor, Bam Shah numbering between 300 and 600 came over to the British side. Hon'ble Edward Gardner, the new commissioner of Kumaun, was then authorised by the Governer General "to entertain as provincial troops for service in the hills of a proportion of Gorkhas or Nepalese, especially such as have families resident in Kumaun and Garhwal".[31] Out of these men and 300 Oudh and Palpa men of Gorakhpur, who had been employed by the British as irregular troops against the Nepalese, the Kumaun battalion was organized.[32]

The formation of the first three Gurkha regiments of the Indian army took place officially on 24th April, 1815.[33] Yet, none of the regiments had actually been organised on that date, because the war was still on and the raising of irregular forces had not yet been complete, Therefore, as it seems, on that date it had been decided in principle by the Governer-General-in-Council to organise the Gurkha irregulars, deserters, and prisoners into three regiments. In pursuance of the decision of the Governer-General-in-Council, the Commander-in-Chief issued his order on the 27th July, 1815 to organise three regiments out of the Gurkhas then

30. P. Lorrain Petre, Op. Cit,, p.9.
31. Nigel G. Woodyatt, *The Regimental History of 3rd queen Alexandra's Own Gurkha Rifles*)London, 1929) p. 321.
32. Ibid, p 9,
33 Lorrain Petre, Op Cit., p. 9.

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available.[34] At first these Gurkhas were meant only "for the service of the conquered territories in the hills",[35] because the native troops were not found suitable for hill service.

The Gurkhas who came over to Qchterlony during and after the siege of the fortress of Malaun were organised into two battalions denominated as the first and the second Nassari battalions constituting the Malaun Regiment. It was the only two-battalion Gurkha regiment.

The Gurkhas serving under Lt. Young were organised into a third battalion the Sirmoor battalion, because all its men had been raised in Sirmoor.

The troops raised in Kumaon were organised as the Kumaun battalion.

Each batttlion consisted of eight companies of equal strength and same establishment: a European Commanding Officer, Capt. or Lt. and a European adjutant. Subahdar was the highest rank which a Gurkha could attain in the Gurkha battalions.

Lt. Ross of the 2nd battalion, 6th Native Infantry, who had headed the irregular corps during the siege of Malaun became the first Commander of the 1st Nassiri battalion.

Lt. J. Marcharg of the 2nd Battalion, 6th Native Infantry became the first Commander of the 2nd Nassiri battalion.

The headquarters of the first Nassiri battalion was Subathoo[36] and that of the second, Malaun.

The Sirmoor battalion which was to have its headquarters at Nahun or Jyetuck[37] as per the order of the Commander-in-chief, 27 July, 1815 finally had it at Dehradun. Howalbag[38] became the head-quarters of the Kumaun battalion

The unifoam of all the four battalions was a close green jacket without facings, red cuffs and collar and trimmings, blue loose trousers and a bonnet. This uniform was designed for them by Ochterlony. The red

34. Ibid,
35. Ibid,
36. A Place in Garhwal.
37. Place in Sirmoor.
38. A Place-in Kumaun.

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cuffs, collar trimmings were maintained, because the same were used by the Gurkha soldiers in Nepal. While the Gurkha were armed with musket, they were permitted to retain their traditional indigenous weapon, Khukri, placed inside a leather waist-belt.

No sooner had these regiments been organised than began the second phase of the war, as the Nepalese Durbar refused to ratify the treaty of Sagauli. The Sirmoor batttalion was ordered to join the newly raised irregular corps under General Nicholls at Seetapore. The battalion crossed the Ganges in early January, 1816 and joined the rendezvous.

General Nicholls was impressed with their instantaneous response, rapid march and discipline. But he was a little hesitant to emply them so soon against their own country. So, inspite of the representations of the Commandant of the Sirmoor battalion, these men were not actively engaged in the campaign. However, the war soon came to an end with the victory of Ochterlony at Mackwanpur. Though the Sirmoor battalion had not been engaged in the recent war, Nicholls commended it as "the only corps with the army properly equipped for hill service.....prepared for the purpose by Lt. Young".[39]

It may be noted here that in the treaty of Sagauli signed by the Nepalese Durbar nothing was mentioned about the recruitment of Nepalese subject in the British Army, although Amar Singh had earlier acquiesced in the enlistment of Gurkha deserters by the British Government. The opposition of the Nepalese Durbar to the entry of its subjects into British servish service became hereafter a sore point in the Anglo-Nepalese relations. While nothing was mentioned in the treaty about the entry of the Nepalese into the British service, it categorically banned the employment of British and Europeans in the service of the Naplese Durbar.[40] And this also created soreness in the Nepalese Government.

Though the four Guakha battalions had been organised as early as 1815, Yet not until 1823 were they treated as regular battalions. In the General order of the commander-in-chief of 6th May 1823, fourteen irregular battalions which included the four Gurkha battalions were

39. Shakespeare, Op. Cit , p. 3.
40. See the Treaty of Sagauli, Article VII. The Treaty of Sagauli was signed between the Nepalese Durbar and the British Government at the end of the Anglo-Nepalese War 1814-16.

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declared "local battalions".[41] Each of them was placed "on one uniform scale or proportion, with regard to rank, emoluments and establishment". Accordingly, the four Gurkha battalions- the 1st Nassiri, 2nd Nassiri, Sirmoor and Kumaon were designated the 6th, 7th, 8th, and 9th local Infantries respectively. These local battaions were specifically meant for service in the provinces or districts in which they were formed but on emergency they ware liable to active service elsewhere.

These local battalions had "rank and precedence" next to the troops of the line i. e, the three Presidency armies. Though the Gurkhas subsequently proved their worth in many battle-fields and the British military officers recognised it, yet till 1850 no Gurkha battalion was brought into the regular army. And this because, as pointed out by Pemble, of the "fear of offending high caste sepoys, parsimony and prejudice against short men".[42]

The early British impression of the Gurkhas, formed in the Anglo-Nepalese war was confirmed by the performance of these men in the campaigns against various native powers. The Sirmoor battalion was the first to be engaged against these powere. When the third Angl-Maratha war began in 1817, this battalion took the place of the second Nassiri battalion as the latter was not prepared to take the field. On October 17, the battalion, under the command of Capt. Young atonce proceded to join the reserved division of the Grand Army under Sir David Ochterlony, operating against both the Marathas and the Pindaris.

Next came the engagement in the siege of Bhurtpore, 1826. The first Nassiri and Sirmoor battalions sent one contingent each. The Gurkhas' hardy fighting and good marksmanship proved most effective in the Bhurtpore operations. Nodoubt, their performance elicited the admiration of British officers. General Reynell remarked,..."the spirited conduct of the little Gurkhas has not escaped the Major-General's observation".[43] The Gurkhas, too were impressed by the British soldiers' performance: "The English are as brave as lions; they are splendid sepoys, and very nearly equal to us".[44]

41. Lorrain-Petre, Op. Cit., p. 10.
42. Pemble, Op. Cit., p. 349.
43. Lorrain-Petre, Op. Cit., p 18-21.
44. Bolt, Op Cit , p. 60,

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With the increasing realisation of the qualities of the Gurkha soldiers, the military authorities in India wanted to replenish and supplement the existing Gurkha regiments by recruits from Nepal proper. They had two considerations in view. First, the Gurkhas were necessary for for the defence, maintenance and enlargement of the British empire. Secondly, by giving employment to them in the Indian army, the British Government hoped to convert Nepal from a war-like enemy to a peaceful ally. Ever since the days of the Gorkha King Prithvinarayan Shah whose reign began in the middle of the eighteenth century, the Gurkhas had ceaselessly followed a policy of conquest and expansion. This policy received further impetus from Bhimsen Thapa, the all powerful Nepalese Prime Minister who ruled Nepal with iron hands for three decades in nineteenth century. Before the Anglo-Nepalese War, it was he, who, to feed the jingosim of Gurkhas had encouraged their schemes of conquest and expansion. But, after the war, the Nepalese army was lef hardly with any scope for material exploits. On the west the Gurkhas hadbeen stopped by the Sikhs. On the north lay the impenetrable Himalayas and Tibet, a protectorate of China, which had defeated Nepal in a war, the result of Gurkha expansionism and then, the treaty with the British made Nepalese exansion to the south impossible. So the career of Gurkha expansion had ended by the Year 1816. But, in the face of warlike instincts of the Gurkhas, Bhimsen did not venture to reduce the army; he constantly augmented it at a time when peaceful relations with its neighbours would make such augmentation unnecessary. Consequently, the fear of a powerful standing army whose warlike energies might at any time lead to another clash with the British kept the British residents in a state of worry. Naturally, therefore, the British Government, for its own interests would like to see either the dissolution of the Nepalese army or its gradual absorption into the British-Indian army. Recruitment of Gurkhas into the British-Indian amry, therefore, became an important objective of British military authorities.

In 1825, Sir Edward Paget, the commander-in-chief, submitted a proposal to the Government for the augmentation of the Gurkha battalions by recruiting from Nepal proper.[45] The Government directed the Resident Sir Edward Gardner to report upon the feasibility of Paget's proposal. Gardner who had a high opinion of Gurkhas was in favour of opening

45. Foreign Department, Political Consulations (National Archives of India, New Delhi), 19th September, 1837, 69-71, Report on Political Transactions with Nepal by Dr. A. Campbell, Assistant Surgeon in British Residency.

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the ranks of the British Indian army for them. Their enlistment, he held, would increase the efficiency of the British army. "As a brave and hardy race, tractable and orderly (under their own officers at least)," wrote Gardner, "no description of Indian troops would, I concived be found superior to these".[46] About their general fitness to fill British ranks, he had no doubt, because their military system had been closely modelled on that of the British and they would be, upon their entry into the British army, "subjected to few new restraints in matters of discipline".[47] Besides, if the Gurkhas were enlisted in larger numbers in the ranks of the British Indian army, it could thwart the war policy of Kathmandu.

But yet, Gardner would not enroll Gurkhas in larger numbers for political reasons: the Gurkhas had attachment to their own country, and might be unwilling to join a foreign army. Besides, the war was an event of living memory for most of the Gurkhas who had deep suspicion and subdued hostility towards the British. Therefore, Gardner apprehended: "No great number would be disposed to enter our regular service even if it were free to them in doing so".[48] Furthermore, even if they joined the Indian army, they could never separate themselves entirely from their country, because their families lived in Nepal. Gradner suspected that in the event of any rupture with Nepal the Gurkha recruits would most likely adhere "to their natural allegiance".[49]

Besides, he apprehended that as the climateof the plains would not suit them, the Gurkhas would always prefer to be stationed in the hills or their vicinity and might hesitate to serve in other parts of India.[50]

Moreover, recruitment was difficult, for Bhimsen would not allow it. While following the old war policy, he maintained an attitude of haughty aloofness towards the British-an attitude which Gardner never questiened, but rather acquiesced in, for the Government's policy at that time was one of non-interference. Thus Bhimsen Thapa, instead of trying to reconcile his people to alliance with the British had fostered their "jealous, prudent and insolent bearing".[51]

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46. Ibid, p. 158.
47. Ibid, p. 158.
48. Ibid, p. 158,
49. Ibid. p. 158.
50. Ibid, p. 160.
51. On the Policy of Bhimsen Thapa see W. W. Hunter, *Life of Brian Houghton, Hodgson British Resident at the Court of Nepal*, (London, 1896) pp. 62-63.

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In such circumstances, the Resident was hardly likely to "shake Bhimsen's obstinate adherence to old war policy" and make him agreeable to the recruitment of Gurkhas in the British ranks Gardner, therefore, recommended that attempts be made to obtain from time to time Gurkhas as merceneries and not as recruits for the regular army. However Gardner's scheme was not accepted by the Government which was opposed to the employment of merceneries.[52]

Inspite of Bhimsen's obstruction, Gurkhas did come in small numbers from time to time to join the British ranks and were welcomed by the British Officers to do so.

Lt. Henry Fane, ADC to the Commander-in-chief in India, who remained some time at Kotgarh and then at Subathu observed that owing to obstructions put by the Nepalese Government, it was difficult to obtain Gurkhas from Nepal proper.[53] Consequently, the existing Gurkha regiments could-neither be supplemented nor replenished with fresh Gurkhas until the out-break of mutiny in 1857.

52. Hodgson Manuscript, (India office Library, London) Volume-9, p. 178.
53. Petre-Lorrain, Op. Cit., p. 16.

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KESHAVANANDA BHARTI CASE: THE BASIC STRUCTURE APPROACH

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Judicial Review has been acepted as an incident of the Indian Constitutional system and it was established beyond any controversy in the case A. K. Gopalan Vrs. the state of Madras in which Justice S. R. Das had categorically said, "In England, Parliament is Supreme and there is no limitation upon its legislative powers. Therefore a law duly made by Parliament cannot be challenged in any Court. The English Courts have to interpret and apply the law; they have no authority to declare such a law illegal or unconstitutional. By the American Constitution, the legislative power of the Union is vested in the Congress and in the sense, the Congress is the supreme legislative power. But the written constitution of the Untied States is supreme above all the three limbs of Government, and therefore, the law made by the Congress in order to be valid, must be in conformity with the provisions of the Constitution. If it is not, the Supreme Court will intervene and declare that law to be unconstitutional and void. In India, the position of the Judiciary is somewhere in between the Courts in England and the United States. While in the main leaving our Parliament and the State Legislatures supreme in their respective Legislative fields, our Constitution has, by some of the Articles, put upon the Legislatures certain specified limitations. Our Constitution unlike the English Constitution, recognises the Court's supremacy over the legislative authority, but such supremacy is a very limited one. Our Constitution unlike the American Constitution, does not recognise the absolute supremacy of the Court".[1] The sources of judicial review have been explained by Chief Justice Kania in the same case as follows :— "The material points of the edifice are first in the Preamble which declares India a Sovereign Democratic Republic to secure to all its citizens justice, liberty and equality and to promote among them all, fraternity. Part-III of the Constitution is an importaat innovation. It is headed "Fundamental

1. (1950) SCR 88—Paragraphs 286 & 287.

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Rights". By Article 13, it is expressly provided that all laws in force in the territory of India immediately before the commencement of the Constitution, is so far as they are in consistent with the provisions of this Part, to the extent of such inconsistency are void. Under Article 13 (2) provision is made for legislation after the Constitution comes into operation. Therefore as regards future legislation also, the Fundamental Rights in Part III have to be respected and unless otherwise saved by the provisions of the Constitution, they will be void to the extent they contravene the provisions of Part III. Under Article 245 (1), the legislative powers conferred under Article 246 are also made "subject to the provisions of this Constitution" "which of course includes Part III dealing with Fundamental Rights".[2] The learned Chief Justice made it clear that reports of debates and the Drafting Committe of the Constituent Assembly are only aids to interpretation[3] and an act cannot be declared void on the ground that it is opposed to any supposed spirit of the Constitution, not mentioned in the instrument. "It is difficult upon any general principles to limit the omnipotence of the sovereign legislative power by judicial interposition except so far as the express words of a Written Constitution give that authority. It is also stated, if the words be so positive and without ambiguity, there is no authority for a Court to vacate or repeal a Statute on that ground alone. It is only in express Constitutional provisions limiting legislative power and controlling the temporary will of a majority by a permanent and paramount law settled by the deliberate wisdom of the nation that one can find a safe and solid ground for the authority of Courts of Justice to declare void any legislative enactment.[4]

The Constitution has distributed powers among the three organs of government, each of whom is expected to function within its predetermined sphere of action. No single organ should encroach upon others' domain and if the legitimate action of any one organ appears unreasonable to any of the other two organs, patience rather than undue assertion of authority is the solution of the conflict. In a Parliamentary system of govrnment, the legislative and executive organs are combined and the judiciary is left in isolation. If the assault on the judicial organ is made with vehemence by the other two organs, the equipoise of the Constitution may be violently disturbed. The legislature makes law and these laws are tested by the Judiciary on the principles of judicial review enunciated above. As every

2. Ibid, para 96 and 97.
3. Ibid, paras 110 and 111.
4. Ibid, Paras 120 and 121.

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law is the embodiment of public policy which is formulated by the Cabinet supported by a majority in the lower house of the legislature and this law is subject to review by the judiciary, the Courts of Law are willy-nilly called upon to arbitrate on politico-legal issues which in course of time assume dimensions of massive poltical controversies. The Constitution cannot stand the strain if the Judiciary on the one hand and the Legislature - cum-executive on the other are poised against each other.

In I.C. Golakhnath case (1967), Chief Justice Subba Rao and five other Judges constituting the majority made judicial review of the Constitution (Seventeenth Amendment) Act, 1964 on the basis of the provisions of the Constitution referred to by Chief Justice Kania in Gopalan Case (1950) but because it involved the politico-legal problem of property in the context of the professed goal of democratic socislism, the decision of the Supreme Court raised intense emotions in political dovecotes and these were magnified on account of subsequent resignation of Chief Justice K.Subba Rao to seek a political office. In the midst of this political controversy, the judical merits of the decision were lost on the country and politicians made it appear as a contest for power between the Judiciary and the Legislature-cum-executive. Political developments in the country made the controversy a poltical strategy or instrument. The Constitution (Twenty-Fourth Amendment) Act, 1971 was enacted to eliminate the effects of the Golakhnath Case and the Constitution (Twenty-fifth Amendment) Act,1971 was enacted to accelerate the pace of socialism in the country. As expected these two Acts were challenged in the Supreme Court in six writ petitions (Nos.135 of 1970, and 351, 352, 373, 374, and 400 of 1972), the earliest of which was entitled His Holiness Keshavananda Bharati Sripadgalvaru and others Vrs. State of Kerala and another which were heard by a Constitution Bench of thirteen Judges and the Court indicated their decision in eleven judgements on April 24, 1973. Unfortunately enough, Chief Justice Sikri retired on April 25, 1973 and the appointment of the new Chief Justice and consequent resignation of three senior Judges raised such an acrimonious controversy that the judicial merits of the judgements in Keshavananda Bharati case (1973) were lost in the maze of the political controversies.

In the J. C. Golakhnath Case, the Supreme Court held the following :

(a) Article 368 did not vest the Constituent power in Parliament ; it is only a procedural Article. Parliament exercised the power of amendment in accordance with the provisions contained in Articles 245, 246 and 248 and Entry 97 of List I in the seventh Schedule i.e. residuary power.

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(b) As a Constitution (Amendment) Act enacted in exercise of residuary power was law, it hurt the provisions contained in Article 13 for which even by an amendment of the constitution, Part-III cannot be amended.

(c) The Constitution Amendment Acts so far made had been in operation for some time and certain facts had been established in the meanwhile for which they were not willing to invoke the doctrine of ultra vires for these Acts but they overruled with prospective effect any law to be made thereafter for the purpose of limiting, abridging or abrogating the fundamental rights embodied in Part-III of the Constitution.

Though five Judges of the Constitution Bench did not agree with these findings, many of them regretted that the Constitution was amended from time to time to make the decisions of the Court nugatory instead of amending the impugned law to bring it in accord with the rulings of the Court and a situation of confrontation between the Legislature and the Judiciary was being created. The Legislature-cum-executive organs instead of waiting for the Court to change its own decision in another case almost created a confrontation with the Judiciary as was clearly elaborated by late Mohan Kumarmangalam and it appeared as if the opinion of a few Judges of the Constitution Bench in Keshavananda Bharati Case was a challenge to them when the new Chief Justice was appointed and three senior-most Judges resigned their office. An analysis of the position following the multiple judgements in the Bharati case makes it clear that the issues raised in Golaknath judgement remain as fluid as before and the country shall have to wait for another series of decisions of the Court before road-blocks of Socialism are finally eliminated.

The constitution Bench in Keshavananda Bharati Case consisted of thirteen Judges including C. J. Sikri and eleven judgements were delivered. Only Shelat and Grover JJ and Hegde and Mukherjre JJ had delivered two joint judgements. The summrry of the view of the majority of the Bench issued after the delivery of the judgements was signed by nine Judges viz. Sikri C. J. and Shelat, Hegde, Grover, Reddy, Palekar, Khanna, Mukherjee and Chandrachud J. Justice A. N. Roy as he then was and Mathew, Beg and Dwivedy JJ did not sign the summary.[5] As Chandrachud J. has observed, " We sat in full strength of 13 to hear the case and I hoped that

5. AIR—August, 1973 page 1461.

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after a free and frank exchange of thoughts, I will be able to share the views of some one or the other of my esteemed Brothers. But we were overwhelmed by adventitious circumstances. Counsels all around consumed so much time to explain their respective points of view that very little time was left for us to elucidate ours. The retirement of the Chief Justice has set a date-line for the judgment. There has not been enough time, after the conclusion of the arguments for an exchange of draft judgements amongst us all".[6] The case was thus unique in respect of the number of Judges and judgments, the time consumed and the manner of handing down the dscision of the Court.

" The view by the majority in these writ petitions is as follows :

1. Golak Nath's Case is overruled.

2. Article 368 does not enable Parliament to alter the basic structure or framework of the Constitution.

3. The constitution (Twenty-fourth Amendment) Act, 1971 is valid.

4. Section 2 (a) and 2 (b) of the constitution (Twenty-fifth Amendment) Act, 1971 is valid.

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6. Ibid—Page 2019 (Para 2009).

7. Section 2 of the Constitution (Twenty-fifth Amendment) Act, 1971 enacted as follows : (a) for clause (2), the following clause shall be substituted, Viz. :

(2) No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for acquisition or requisitioning of the property for an amount which may be fixed by such law or which may be determined in accordance with such principles and given in such manner as may be specified in such law and no shch law shall be called in question in any Court on the ground that the amount so fixed or determined is not adequate or that the whole or any part of such amount is to be given otherwise than in cash:

provided that in making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority referred to in Clause (1) of Article 30th the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that Clause. (b) after Clause (2A) the following clause shall be inserted (2B) Nothing in sub-clause (f) of clause (i) of Article 19 shall affect any such law is referred to in clause (2)—Ibid—Para-412.

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5. The first part of section 3 of the Constitution (Twenty-fifth Amendment) Act, 1971 is valid. The second part namely " and no law containing...such policy "[8] is invalid.

6. The constitution (Twenty-ninth Amendment) Act, 1971 is valid.

The Constitution Bench will determine the validity of the Constitution (Twenty-sixth Amendment) Act, 1971 (relating to abolition of privy purses and privileges of Princes) in accordance with law.[9]

An analysis of the summary shows that there was unanimity in respect of very few issues and majority opinion in other but the two most controversial issues remained to be decided later. These are (a) What is the basic structure or framework of the constitution which according to the majority opinion, is outside the purview of Article 368 ?

(b) To what extent a law declaring that it would give effect to the policy of the State towards securing the principles specified in clause (b) or clause (c) of Article 39 can be called in question in any Court ?

It is to be marked in this connection that after this judgment there has been no criticism of the Supreme Court on the ground that it still continues to protect vested interests or it obstructs the progress of the country towards socialism. One can infer from the resultant situation that probably after the violent reaction against the appointment made after the

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8. Section 3 of the Twenty—fifth Amendment reads thus :

"2. After Article 31 B of the Constitution the following article shall be inserted viz.

31C. Notwithstanding anything contained in Article 13 no law giving effect to the policy of the State towards securing the principles specified in Clause (b) or Clause (c) of Article 39 shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14, Article 19 or Article 31, and *no law containing a declaration that it is for giving effect to such policy shall be called in question in any Court on the ground that it does not give effect to such policy.*

Provided that where such law is made by the legislature of a State, the provisions of this Article shall not apply thereto unless such law having been reserved for the consideration of the President, has received his assent."—

Ibid—Para. 431.

9. Ibid—Page-1462.

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delivery of this judgment in Keshavananda Bharati Case, there was no need to whip a dead horse, particularly when the present Government appointed nine Judges of the Court.

The Judges who Judge held that Article 368 cannot be extended to a change in the basic structure or framework of the Constitution are Sikri-C. J. and Justices Shelat, Grover, Hegde, Reddy, Mukherjee and Khanna. Likewise Justice Khanna agreed with six other Judges in Constitution of the majority on the second issue. As Palkhivala writes "By a strange quirk of fate, the judgment of Justice Khanna with which none of the other twelve Judges agreed has become the law of the land" Justice Khanna thus become the marginol Judge to tilt the balance in favour of the citizen.

The learned Chief Justice Sikri in his judgment detailed the following as the basic structure or framework of the Constitution:—

(1) Supremacy of the Constitution.

(2) Republican and Democratic forms of Government.

(3) Secular Character of the Constitution.

(4) Separation of Powers between the legislature, the executive and the judiciary.

(5) Federal character of the Constitution.

Justice Khanna in his learned judgement [11] illustrates the basic structure as follows :—

(a) Democratic government and not dictatorship or hereditary monarchy.

(b) Existance of Lok Sabha and Rajya Sabha.

(c) Secular character of the state.

As he says, " Provision regarding the Amendment of the Constitution does not furnish a pretence for subverting the structure of the Constitution nor can Article 368 be so construed as embody the death wish of the Constitution or provide sanction for what may perhaps be called its lawful harakiri "[12] Even Justice Mathew who was not in the majority says " The only limitation is that the Constitution cannot be repeated or abrogated in the exercise of the power of amendment without substituting

10. Statesman dated 11 5.1973.
11. AIR Ibid—Para-302.
12. Ibid—Para-1437.

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mechanism by which the State is constituted and organised.[13] Justice Beg says " It seems to me that the necessary implication of the word 'amendment' or the meaning of the term itself may exclude a possible complete abrogation of the costitution althouph that could be done, step by step by the bodies empowered to amen if they so disered and followed the appropriate procedure. Further "It may not include the power of [14] completely abrogating the Constitution at one stroke. It however seems wide enough to erode the Constitution completely step by step so as to replace it by another".[15] Justices Shelat and Grover held that " Though the power to amend cannot be narrowly construed and extends to all the Articles, it is not unlimited so as to include the power to abrogate or change the identity of the Construction or its basic features ×× the power is not so wide as to include the power to abrogate or take away the fundamental freedoms "[16] Justices Hegde and Mukherjee went a step further and identified what they regarded as the basic structure of the Constitution. According to them, " The Parliament has no power to abrogate or emasculate the basic elements or fundamental features of the Constitution such as the sovereignty of India, the democratic character of our polity, the unity of the country, the essential features of the individual freedoms secured to the citizens. Nor has the Parliament the power to revoke the mandate to build a welfare State and egalitarian society. These limitations are only illustrative and not exhaustive."[17] Justice Reddy is of opinion that " Parliament could amend Article 368 and Article 13 and also all the fundamental rights and though the power of amendment is wide, it is not wide enough to include the power of totally abrogating or emasculating or damaging any of the fundamental rights or the essential elements in the basic structure of the Constitution or of destroying the identity of the Constitution".[18] Thus ten of the thirteen Judges of the Constitution Bench held the view that the power of amendment is limited though each one or any two of them have spoken differently about the scope and extent of the limitations.

Opposed to this point of view, Justice A. N. Roy as he then was says " The power to amend is wide and unlimited. The power to amend means the power to add, alter or repeal any provision of the Constitution. There

13 Ibid—Para-1798.
14. Ibid—Para-1850.
15. Ibid—Para- 849.
16. Ibid— ara-624.
17. Ibid—Para-682.
18 Ibid—Para-1222.

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can be or is no distinction between essential and unessential features of the Constitution to raise any impediment to amendment of alleged essential features. Parliament in exercise of Constituent power can amend any provision of the Constitution. Under Article 368, the power to amend can also be increased. Amendment does not mean mere abrogation or wholesale repeal of the Constitution". Justice Palekar observes, " The power of[19] amendment can reach all provisions wheather important or unimportant, essential or unessential ". × × There were no impied or inherent limitations on the amending power under the unamended Article 368 in its operation over the fundamental rights".[20] Justice Dwivedy almost says the same thing as in his opinion " The word amendment in Article 368 is broad enough to authorise the varying repealing or abrogating each and every provision in the Constitution including Part-III".[21] Justice Chandrachud completed the process by his remark " There are no inherent limitations on the amending power in the sense that the Amending Body lacks the power to make amendmdnts so as to damage or destroy the essential features of the fundamental principles of the Constitution".[22]

Different Judges have looked upon the supposed limitations from different angles of vision and four of them have seen no limitations at all on the power of amendment. Three Judges have gone to the extent of suggesting abrogation of the Constitution through the procedure of amendment. Thus though Golaknath judgement is over-rulled on the strength of the Twenty-fourth Amendment Act, 1971, the position remains as uncertain as before. The country has to wait for another case to be filed when the Court may overrule the dicision regarding the supposed limitations on the amending power.

Another twilight zone in the judgment is the provision. " No law containing a declaration that it is for giving effect to such policy shall be called in question in any Court on the ground that it does not give effect to such policy " which has been declared invalid.[23]

Article 31C envisaged property legislations to accelerate the pace of socialism in accordance with the provisions of clauses (b &c) of article 39 in the Directive Principles of State Policy which read as follows :

19. Ibid—Para-1078.
20. Ibid—Para-1326 and 1343.
21. Ibid—Para-2008.
22. Ibid—Para-2156 (b).
23. Ibid—Para-431.

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" 39. The State shall in particular, direct its policy towards securing

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good ;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment".

Chief Justice, Sikri and Justices Shelat, Grover, Hegde and Mukherjee held the entire Article 31c invalid. Justice Khanna declared only the proviso to be invalid and not the entire Article as according to his opinion, it is severable from the first part. He also said "The vesting of power of ex-clusion of judicial review in a legislature including the state legislature contemplated by Article 31c strikes at the basic structure of the Constitution".[24] He also struck down the portion mentioned above.

As against this Justice A. N. Roy as he then was, held the Twenty-fifth Amendment Act, 1971 including Article 31c valid. Justice Palekar almost agreed wlth him though with different arguments. Justice Mathew said, " The declaration visualised in Article 31c that the law gives effect to the policy of the State towards securing the principles specified in Article 39(b) and (c) of the Constitution would not oust the jurisdiction of the Court to go in to the question whether the law gives effect to the policy".[25] Justice Beg held both parts of Article 31C valid through he observed, " The declaration by itself would not preclude a judicial examination of the nexus so that Courts can still determine whether the law passed is really one covered by the field carved out by Article 31C or merely pretends to be so protected by parading under cover of the declaration".[26] Justice Chandrachud also held both parts of Article 31c valid, yet he observed, " Inspite however of the purported conclusiveness of the declaration therein mentioned, the Court has the power and the jurisdiction to ascertain whether the law is for giving effect to the policy of the State towards securing the principles specified in Article 39(b) or (c)"[27] Mr. Justice Jaganmohan Reddy held the portion " and no law containing a declaration...to such policy " invalid but as he considered it severable, he said " Article 31c after severing the portions indicated above, is held valid".[28]

24. Ibid—Para-1541.
25. Ibid—Para-1802.
26. Ibid—Para-1868.
27. Ibid—Para-2156.
28. Ibid—Para-1220.

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Thus two issues involved in the case await solution in future litigations. The significance of the Twenty-fourth Amendment Act, 1971 has been cosiderably whittled down by the majority opinion in regard to unamendability of the basic structure or framework of the Constitution. In Golakanath Case, the Court did not deny the constituent power to Parliament; they merely held that it was not a vested power but residuary power for which the Constitution Amendment Acts were equated with ordinary laws. In Kesavananda Bharati Case, many judgments have emphasised upon the fact that the Twenty-fourth Amendment Act is more an explanation of the functions of Parliament rather than vesting of any new power or extension of their existing functions. Hence a road-block is still there against amendments in future until it is clearly decided again as to what is exactly the basic structure or framework of the Constitution and if these can be amended by Parliament step by step so as to repeal or abrogate the Constitution altogether as has been remarked in some of the minority or disserting judgements.

Likewise the road to Socialism intended to be paved by the Twenty-fifth Amendment has been blocked again by the possibility of judicial review of legislations enacted in furtherance of the objectives laid down in Article 39(b) and (c) as held by the majority opinion. It has to be decided again if the whole of Article 31C is valid and the jurisdiction of the judiciary is ousted from legislations carrying a declaration that they are intended to equi-distribute the ownership and control of the material resources of the cmmunity to subserve common good and deconcentrate wealth and means of production. Unless these two road-blocks are removed, the two Amendment Acts are not likely to produce desired results.

Even Section 2(a) and (b) of the Twenty-fifth Amendment Act though held valid may lead to further litigations in future, for substitution of the word "amount" for " compensation " in article 31 (2) has not been unanimously held as immune from judicial review.

Chief Justice Sikri says " while passing a law fixing principles, the legislatures are bound to provide a procedure for the determination of the amount and if the procedure is arbitrary, that provision may well be struck down under Article 14".[29] Justices Shelat and Grover go further and

29. Ibid—Para-428

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declare, "Though the Courts are debarred from going into the question of adequacy of the amount and would give due weight to legislative judgment, the examination of all the matters i.e. (fixation or determination of amount has to be based on some norm or principle and it should have a reasonable relationship with the value of such property) is open to judicial review".[30] Justices Hegde and Mukherjee say, " The question whether the amount in question has been fixed arbitarily or the same is illusory or the principles laid down for the determination of the same are relevant to the subject-matter of acquisition or requisition at about the time when the property in question is acquired or requisitioned are opened to judicial review".[31] Justice Reddy remarks "The word 'amount' has no legal concept and as the amended clause indicates, it means only cash which would be in the currency of the country, and has to be fixed on some principle. Once the Court ls satisfied that the amount or the manner of its payment is neither arbitary nor illusory, × × × the Court cannot go into the question of the adequacy of the amount so fixed or determined on the basis of such principles".[32] In the opinion of Justice Palekar, " Whether a particular law fixes an amount which is illusory or is otherwise a fraud on power denying the fundamental right to receive an amount specifically conferred by clause (2) will depend upon the law when made and is tested on the basis of Clause (2)[33] Justice Dwivedi has expressed a forthright opinion when he remarks," If the amount paid to the owner of property is in violation of the principles of Article 14, the law may even now be struck down".[34] Justice Chandrachud is more decisive in his opinion; for he says "Courts have the power to question such a law if (i) the amount fixed is illusory or (ii) if the principles if any, are stated for determining the amount, are wholly irrelevant for fixation of the amount, or (iii) if the power of compulsory acquisition or requisition is exercised for a collateral purpose or (iv) if the law of compulsory acquisition or requisition offends the prineiples of Constitution other than the one which is expressly excepted under Article 31 (2B) introduced by Section 2 (b) of the 25th Amendment Act namely Article 19(1) (f) or (v) if the law is in the nature of a fraud on the Constitution".[35]

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30. Ibid—Para-624
31. Ibid—Para-759
32. Ibid—Para-1222
33. Ibid—Para-1329
34. Ibid—Para-1986
35. Ibid—Para-2156

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On the other side, Justice A. N. Roy as he then was, ruled out the possibility of judicial review when he said, " If any person aggrieved by the amount fixed, challenges the amount, the Court can nither go into the question of adequacy nor as to how the amount is fixed, × × × The correctness of the amount cannot be challenged. The principles specified are not justiciable".[36] He is supported by Justices Mathew and Beg who say. "The question of reasonableness of the amount or the relevancy of the principles is entirely outside the judicial ken. × × × The Court cannot go into the question whather the amount fixed by law or the principle laid down for determining the amount is adequate or relevant".[37] Justice Khanna has followed the same line by ousting judicial review.

Thus the judgement in Keshavananda Bharati Case has left all the issues to be finally decided in future and the so-called judicial road-blocks remain wherever they were.

To conclude in the words of Chief Justice Roy, " The Scheme of the Constitution generally discloses that the principles of social justice are placed above individual rights and whenever or wherever it is considered necessary, individual rights have been subordinated or cut down to give effect to the principles of social justice. Social justice means various concepts which are evolved in the Directive Principles of the State".[38]

36. Ibid—Paras-1062 and 1063
37. Ibid—Paras-1775 and 1801
38. Ibid—Para-1066

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THE PRESIDENT AND GOVERNOR OF THE EAST INDIA COMPANY: A STUDY ON INSTITUTIONAL DIMENSIONS

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In order to understand the core of Indian constitutional evolution, it is necessary to review the growth of executive institutions and the process of gradual decentralisation under the East India Company and the Crown which influenced the framing of the Constitution of India. The contemporary political institutions are heirs of the past. We, in fact, discover the roots of the exiting institutions in the past constitutional machinery which worked as the harbinger for modern political institutions.

Indian political institutions like those of the United States have a rich British background. The introduction of modern democratic institutions in India as a device of self-government has evolved gradually under detailed British supervision. The peculiar features of indigenous institutions of Moghul pattern influenced the form and character of early English administration. The East India Company, being the true representative of the contemporary age of reform in England, attempted at building a workable method of government on the Indian soil. The administrative system of the Company was a prelude to the gradual British parliamentary control and the era of Viceroys and Governors-General of India. The Company which started as a trading Corporation in 1600 ended in 1858 by administering India. Such a study of the administrative institutions and official governments presents a picture of how India was actually governed during the formative stages of British rule.

The Company :

The Company which was granted a Charter for fifteen years in December, 1600 by Queen Elizabeth *"for the honour of our nation, the wealth of our people"* was made stronger by the extension of the period of the Charter from *fifteen years to perpetuity by James I.*[1] The King could

1. *Act of Parliament of 1698.*

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grant this Charter in exercise of the Royal Proclamation of Prerogative under the authority conferred upon him by an *Act of Parliament of 1698*.

Sir Thomas Row's mission at the Court of the Moghul Emperor, Jahangir went a long way to counteract the forces of opposition. This also made the path easier for the pursuit of its commercial interests. The Company had to face enormous difficulties and persistent opposition of the Portuguese, who had established their influence is this country from over a century before. During the early days of the Company there was no need for an elaborate administrative organization. It had only trading stations without any territorial sovereignty. The exercise of territorial function had never formed a part of its intentions. But, in course of time, the Company acquired wider authority over Calcutta, Bombay and Madras under varying circumstances dictated by different sources of its power. The general principle of control of business of the factories was the rule of a Council, the chief member of which was styled as Governor or President[2]. Its colonial settlements at Fort William, Calcutta, Fort St. George, Madras and Fort St. David at Bombay were called Presidencies, probably because at the head of each of them there was a President[3]. At the head of the Government of each Presidency, there was a President, who was also known as Governor.

Established under widely varying conditions by dissimilar groups of people, these Presidencies started with a considerable degree of political arrangement. The Company acquired its possessions by diplomacy and war, and enhanced its powers-noteworthy among them being the erection of fortifications and the transport of men for garrisoning them. Charles II favoured the Company with the transfer of the Port of Bombay which enabled the Company to wield armed authority from the Bay of Bengal to the mid-Atlantic. With the death of Aurangzeb in 1707 and the consequent decline of Moghul Empire, the Company gained ground politically. The state of decay and degeneration paved the way for the establishment of independent Governorship in this country. The British, the French, the Dutch and the Portuguese were the competitors in the field. Fortune smiled upon the Company. Neither the Dutch, nor the French nor the Portuguese were destined to play any important role in Indian politics following the dissolution of the Moghul Empire.

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2. Keith, A. B., 1961, *A Constitutional History of India, 1600-1935*, P. 21, Allahabad.
3. *Banerjee, D. N., 1943, Early Administrative System of the East India Company*, Vol. I. 117, Longmans.

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The British traders, as original settlers, started with a fort, and grew into an Empire. In course of time, the value of its trade had so multiplied that the Company was accused of devouring *"above half the trade of the nation".*[4] The Company embodied all the traits of the mercantilist system, namely, monopoly, armed trade and colonialism. In fact, a delegation of the British sovereign was sent to the East. Though the aims of the Company were essentially commercial, political conditions favoured an extensive field of activity. Several Charters were issued from time to time enlarging thereby the authority of the Company to govern themselves, their servants and, subsequently. the areas under their control.

The Company which had initially starged as a *Syndicate* with a concession for Indian trade became gradually *a body corporate* and *a juristic personality.* The legality of such a grant was recognised as a *Royal Prerogative* which formed a part of British Common Law. On the other hand, economic and political conditions demanded concentration of outhority in the hands of a single body for successful competition with the other rivals in the field. The Company[5] could *purchase the Zamindary of Calcutta in 1698.* Victory of arms at *Plassey* brought the district of *Twentyfour Parganas in 1757.* The victor saw in it the seeds of a future Empire. Mir Qasim, the Nawab of Bengal in 1760 ceded the districts of *Midnapur, Burdwan and Chittagong.* Further, the Moghul *grant of Diwani in 1765 by Shah Alam* invested the Company almost with the virtual sovereignty of the three provinces of *Bengal, Bihar and Orissa*[6]. The Nawab of Bengal, consequently, recognised the superiority of the Company.

Diwani was designed to secure the stability of the Company's interests in India against the pretensions of the French. The Company became the virtual master of Bengal, Bihar and Orissa by exercising all sovereign powers but without accepting any responsibility whatsoever. This achievement of territorial sovereignty by the East India Company has been characterised by Hunter as *"no sudden triumph, but an indomitable endurance during a century and a half of frustration and defeat".*[7] On the other hand, the Nawab of Bengal become by degrees, a mere *stipend-enjoying figurehead of the State.*

4. Hunter, W. B., 1399, *A History of British India,* Vol.. II, P. 278. London.
5. Misra, B. B., 1959, *The Central Administration of the East India Company,* P. 17-63, Oxford.
6. Banerjee, D. N., Ibid. P. 251-265.
7. Hunter, W. W., 1899, *A History of British India,* Vol. I., P. 2, London.

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The acquisition of territory by the Company and the gradual substitution of the prevailing system of administration by a western pattern, initiated and controlled by the British officers. introduced an element of change in this country. Though the manner of control of the Company's business was democratic in principle, it functioned as a coercive agency in imposing punishments and penalties by imprisonment[8]. The Company was also granted certain limited powers of minor legislation forbidding any fundamental alteration of the principles of English law. Both political and judicial authorities were accorded to the Company by a Charter by Charles II. This signalized the readiness of the Crown to accord the fullest power to the Company. Suprisingly, the *Charter of 1698* contemplated the exercise of sovereign powers in India by the Company over forts, factories and plantations.

The affairs of the Company were administered subject to the control of its *Court of Directors* and ultimately of its *Court of Proprietors* at Home. It was by the instrumentality of the *President and Governor* and a Council consisting of its superior servants. In 1700, the independence of Calcutta was recognised by the appointment of Sir Charles Kyre as the first *President and Governor* of Fort William, In 1715, the new post of President and Governor of Bombay was created. The three Presidencies at *Fort William, Fort St. George* and *Fort St. David* stood on a footing of equality. Further, they were subject to the co-ordinating power of the Company which could do little to bring about a concerced policy. Long distance stood on the way of the Company. Correspondence, though time-taking, was the only means of control.

The system of government was primarily designed to endow the Company with the powers *to maintain law and order in the factories, forts and trading stations.* But the Court of Proprietors wrote to their President and Governor in 1687 :

> "to establish such a polity of civil and military power and create and secure such a large revenue to secure both ... ... as may be the foundation of *a large, well-grounded, secure English dominion in India for all time to come*".[9]

8. Keith, A. B., 1961, *A Constitutional History of India, 1600-1935*, P. 120; Allahabad.
9. *Court's Letter to the President and Governor*, dated the 12th December, 1687.

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Such an ardent desire on the part of the British traders speaks of their sincere imperialistic designs so as to establish and perpetuate British imperialism on the Indian soil.

The President and Governor :

Collegiate rule, however, was practised by the Company. The President and Governor was regarded only as a mere ceremonial head which differed considerably from that of the Governor of a Crown colony. *"All power was lodged in the President and Council jointly and nothing could be transacted except by a majority of votes"*.[10] An important feature of this *Committee form of government* in its early stage was *majority rule* ; the President being vested with a simple casting vote in case, the Council was equally divided. The President was not normally entitled to *over-rule* his *colleagues*. Further, the composition of the President's Council peculiarly varied from time to time and place to place. In the early days, the Presidencies were marked by *absence of political authority*, This was probably disadvantageous to the interests of the Company. The Presidencies themselves were subject to a *very close control* by the Company so far as that could be exercised only through *the medium of correspondence*. The Company, of course, had the supreme *right of removing its officers* from their offices as well as *of punishing them*.

The three Presidencies often acted according to the principle of of *"mutual help"* in relation to one another. But, constitutionally speaking, they were absolutely *"independent of one another"*. The President or Governor and Council in each Presidency were responsible to the authorities of the Company in England for proper execution of their duties in India. The President and Governor was appointed by the Court of Directors of the Company in accordance with the exercise of the power vested in the Company by the *Royal Charter*, dated the 5th September 1698. This will be evident from the following extract from the *General Letter of the Court* :[11]

> "That it was the desire of the said Court, *Lord Clive* be requested to take upon him the station of President of Bengal and the Command of the Company's military forces there upon his Lordship's arrival at the said Presidency".

10. Ilbert, Sir C, 1915, *The Government of India*, P. 42, Oxford.
11. *Court's General Letter, dated the 1st June, 1764.*

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Again, "his Lordship having signified his acceptance of the same, he is accordingly appointed President and Governor".[12] Thus, the President and Governor was responsible for the *civil and military administration* of the Presidency.

The Company invariably appointed one of its *civil servants* as President and Governor of a Presidency. There was the usage of constituting a "*Council for managing and conducting all the affairs at the Presidency*". The constitution of the Council differed from time to time from nine to sixteen. The members of the Council, like the President and Governor, were ordinarily appointed by the *Court of Directors*. The President and Council were empowered to fill up temporary vacancies by appointing some superior servants of the Company. Normally, such vacancies were filled up by the next available persons from the *list of covenanted servants*. This provisional appointment was to continue until further pleasure of the Court was signified to the Governor and Council. Prior to appointment, the Governor and Council were to be convinced of the ability, integrity and general conduct of the individual concerned.

In 1764, the Council at the Presidency of Fort William in Bengal consisted of Lord Clive, William Brightwell Sumner, Brigadier General John Carnac and thirteen others. The Court of Directors directed that Lord Clive was to be the President and Governor and William Brightwell Sumner was to be the second and to succeed to the government of the Presidency of Fort William in case of death or during the absence of Lord Clive. In case of his death or removal, Brigadier General John Carnac was to succeed to the Presidency with similar powers, privileges and authority until the Court's further orders to the effect[13]. Thus, the Company had outlined the order of succession.

Further, the underlying principle was to assert the superiority of the civil over the military authorities. This has almost become the universal principle of administration. Even under *Montagu-Chelmsford Act*, more or less identical incapacity was attached to the office of the Commander-in-Chief of India.[14] *Lord Clive argued*, "*The welfare of this*

12. Ibid, Para 12.
13. Ibid, Para 17.
14. Section 37 of *the Montagu-Chelmsford Act*. "If the Commander-in-Chief was a member of the Executive Council of the Governor-General of India, he was to have rank and precedence next to the Governor-General.

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great Company should be the sole study of a Governor." This is why, perhaps "*a status of independence and honour*" was claimed by him for the office of the President and Governor.

An Oath of office was used to be administered to the President and Governor before the Mayor and Aldermen and in the presence of "a great number of inhabitants". He was also to enter into the *Penalty Bond*, as suggested by the Select Committee and approved by the Council. It was restricted in points of Trade and Private interests. On the morning of the 1st October 1966, the Right Hon'ble Lord Clive did, take an Oath in the most solemn manner in the name of the Almighty God. The sum of six thousand pounds a year allowed to Lord Clive was, however, exclusive of the extraordinary expenses, if any, which he might have to incur in case he was under the necessity of taking the field. The Court had directed that all such expenses should be borne by the Company, and paid to him out of its "cash in Bengal".[15]

Primus Inter Pares :

The President and Governor may be regarded as bearing to his Council no other relation than that of primus inter pares.[16] Warren Hastings himself remarked. "The powers of the Governor, although supposed to be great, are in reality, little more than those of any individual in his Council".[17] As it appears on the surface, the role of the President seemed like that of the President of the Swiss Federal Council. Even the President did not possess the power of over-riding the majority of his Council or Select Committee and acting on his own authority and responsibility in special cases. But expediency of circumstances sometimes necessitated departure from this principle of collective rule. In fact, the power to over-ride the majority of the Council and to act on their own responsibility was first conferred upon the Governor-General of Bengal, and also upon the Governors of Bombay and Madras by a Parliamentary enactment of 1786.

Technically speaking, the President was "the First" usually among nine to sixteen equals. Every question brought before a meeting of the President and Council was decided, if the whole Council had duly been summoned, by a majority of the Council. But he had certain special

15. *Court's General Letter, dated the 1st June, 1764, Para 64.*
16. Gleig, G. R., 1841, *Memoirs of Warren Hastings*, Vol. I, p. 23, London.
17. *Letter of Warren Hastings to the Court of Directors at Fort William*, dated 11th November, 1773, para 9.

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powers and privileges which contributed much to the dignity, prestige and influence of his office. His power of correspondence with the country powers is normally the diplomatic function of the Head of the State. In connection with the question of sending an Ambassador to Nawab Shuja-Ud-Dowlah, Warren Hastings as President remarked, "The Governor shall be the only channel of communication between the Administration and the powers of the country". This exclusive power of diplomatic communication and correspondence certainly made him appear as the sovereign Head of State. In fact, he was an agent of the Company to implement its orders and directions from time to time.

The President and Governor was also the Commander-in-Chief of the Company's forces. The Governor of Bengal, as seen above, was also under the terms of his appointment, the Commander-in-Chief of all the Company's forces in the Presidency of Bengal. The Company's Commission, for example, appointing Lord Clive to be President and Governor mentioned :

> "Know ye that we the said United Company .. be these presents to make, constitute, and ordain the said Robert Lord Clive, to be President and Governor of and for all the said Company's affairs in the Bay of Bengal and the other places and provinces thereto belonging in the East Indies and also to be our Governor and Commander-in-Chief of our Fort William in the Bay and all the towns and territories thereunto belonging and of all and singular the Forts, Factories, Settlements, Lands, Territories, Countries and Jurisdictions belonging to us within the Subaship of Bengal and all the forces which are now or hereafter may or shall be employed for the service of the said United Company in the said Forts, Towns, and places and to execute all and every powers and authorities thereunto appertaining, by order and direction of the Court of Directors of the said United Company for the time being ... ."

Thus, the Court was the final authority regarding the administration of Company's affairs. The President and Governor was the watch-dog of the Company's establishments in India. Powers were delegated to him under the terms of appointment. As such, he was the agent of the Company in controlling and supervising the administration and the territorial possessions. In doing so, he was to execute the orders and directions of the Court. The orders and directions furnished the basis of powers and authority of the President and Governor from time to time.

The Court of Directors itself sometimes invested the President with extraordinary powers to deal with an *emergent situation*. It did so, for

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example, in 1764. Having learnt of a great concern from the intelligence from Fort St. George that the affairs of the Company in Bengal were "in the autmost confusion", the Court conveyed its orders, directions and sentiments in the clearest manner and delegated to him,

> "the fullest powers ..... to pursue such measures as he should judge most proper for dealing with the then situation in Bengal".

The Court authorized the President and Governor of Fort William, and "to him only" to "restore tranquillity."

Thus, the Court made gradually the office of the President appear as extensive as possible in the eyes of the people. The President exercised Executive, Administrative, Commercial, Military and Emergency powers, and was "*to preserve, protect and defend*" the trade and commercial interests of the Company within his jurisdiction. He alone was the channel of Communication between the Administration and the country Princes. He was responsible and was considered to be "the first among equals". The Council was almost always unanimous in supporting the dignity of his office. In fact, the President and Governor was considered to be the sole manager and director of political affairs of the Company within his jurisdiction. The Company built up gradually its political institutions through various experiments mainly from its acquisition of the Diwani in 1765. The Nawab of Bengal became a pensioner of the State. Consequently, the Company consolidated its position in Bengal as virtual supreme political authority both constitutionally and administratively.

The role of the Company in elevating the position of the President and Governor cannot be undermined. In 1756, a *Select Committee* was constituted to assist the administration of affairs of the Company in each Presidency. The size of the Select Committee varied from three to six[18] persons including the President and Governor. The Committee dealt with political and military matters requiring secrecy and confidence. It was to transact affairs, negotiate matters and contract treaties and alliances with the European and Indian powers as far as secrecy was absolutely necessary. In nutshell, it was to carry out any business affecting the Government or the political and military interests of the Company. Further, it was authorised to interfere on such occasions as it thought necessary for the

18. Banerjee, D. N., 1943, Ibid, p. 25–65.

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good of the Company and the welfare of the country. Lord Clive[19] was authorized by the Court to suspend any Select Committee or even the Council in case of necessity. But normally the Select Committee functioned like a *Super-Cabinet* and appeared more powerful than even the Council. This was too much of importance which was attached and attributed to a Committee.

The general supervising power over the administration of Company's affairs was vested in the Council. The powers of the President and Governor and Council and their inter-relationships are clearly set forth in the following despatch to St. Helena[20] :

> "We will ..... tell you the authority we invest you and the Council with as that each may know how far he ought to do. The Governor is entrusted by us, in the first place, to see all our orders are obeyed We appoint a Council to join with him therein, and to give their opinion each of them in all matters that come before them ; the majority of votes are to determine every question. If any one or more of the Council think the determination wrong, they must enter their dissent in consultation with their reasons, or else we take it for granted, they agreed thereto, and shall ensure them as we think they deserve".

Thus, the Council was to "aid and advise" the President and Governor on matters on the table. The majority opinion of the Council decided the issues in question. Silence of any member meant support. Otherwise, a note of dissent with justification and explanation was to be submitted to the effect. The Council thus exhibited some features of a Cabinet. It was, in fact, an Executive Council consisting of Company's Civil Servants. Thus, *"Official Government"* was in operation in India under the auspices of the Company.

The Governor, like any other member, was one member of the Council, though he was the chief of the whole show. The Governor and Council are to be the custodian of the Company's interests in India. During the absence of the Council, the Governor was to have the general care of all things. The members could have mutual consultations on proposals they made in the Council. In case a proposal in the interest of the Company was rejected by the Governor, the Company, on notice from the members could permit the inclusion of such proposal for discussion by the Council.

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19. *Company's General Letter to Bengal*, dated 17th May, 1766, para 41.
20. *India Office Records*, Letter Book No. 16, *Dispatch to St. Helena*, March 21, 1718

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Such a system of check and counter-check proved to be a source of great danger. Instances of such misunderstanding and mismanagement of administration were many. As there was no specific demarcation of jurisdiction, the Council and the Committee failed to function as effective organs of executive Government of the Company. Consequently, the Company's services faced utter degeneration in course of time due to corruption and bribery. Changes in the constitution of the Company and administrative reorientation were contemplated from time to time so as to reform the conduct of the individuals constituting the services. Further, the members of the House of Commons claimed State share of the Indian spoils as price of permission to remain in possession of the territories acquired by the Company in India. The State also asserted its right to control the sovereignty of Indian territories.[21]

India was a mere geographical expression during those days.[22] There was no national feeling and there was no India in the political sense of the term. That is why a foreign mercantile corporation with European military service and generalship could outstrip all its foreign rivals and win over all sporadic outbursts including the Battle of Plassey. The Company, in fact, became a trustee of the Crown even in the field of administration.[23] The Presidency governments were constructed on the basis of Centra Government.

The political institutions of the Company gradually grew up through several experiments. The fundamental principle of the Company in the administration was complete subordination of the military to the civil authorities. This necessarily involved civil control and supervision over military policy. Even military operations were conducted under the orders of the Select Committee. But the supreme military power[24] was vested in the President and Council at Fort William. The military officers were not only to obey their superior offices according to the Rules and discipline of war but were also entirely subject to the orders of the Governor and Council. Clive who had been more a soldier than anything else emphasised the principle of complete subordination of the military to the civil

21. Ilbert, Sir, C., *Historicvl Survey*, p. 39.
22. Majumdar, R. C., 1963, *History of the Freedom Movement in India*, Vol. I, p. 20, Calcutta.
23. *The East India Company Act, 1767.*
24. *Court's General Letter to the President and Council at Fort William*, dated 24th December, 1765.

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authority. The system was to inculcate a total subjection of the Army to the Government. It was the indispensable duty of the Governor and Council to keep them so, because, it was the Army which brought prestige to the Company and maintained it. Hence, the entire dependence of the military on the civil power was brought about with the strictest subjection. The Company was, what it was, due to its military authority. No native citizen was trusted with any part of important service. Further, the native population was kept as ignorant as possible both of the theory and of the practice of the Artillery branch of the art of warfare. Finally, the Regulating Act of 1773 was passed by the British Parliament to regulate the Company' government and administration in India.

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THE ADVAITA CONCEPTION OF PHILOSOPHY : ITS METHOD SCOPE AND LIMITS

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Philosophy seeks after knowledge (*Vidyā*). It explains the difference between knowledge and its opposite (*Avidyā*). Philosophic knowledge aims at discovering the eternal, the unchanging and the incorrigible (the *sat* and the *Aparināmi*) among our ideas as distinguished from the non-eternal, the changeable and the corrigible. It differentiates between the incorrigible and the corrigible among our ideas (*Nityānitya vastu viveka*). The idea which remains steady throughout our intellectual activity is the eternal (*Sat*). That which is corrigible and therefore unsteady is the non-eternal (*Anruta*). That kind of idea which does not change is *Sat*, is the eternal (*Yat Visaya budhi Na vyabhi caratitat sat*). But that kind of idea which undergoes change is the non-eternal. (*Yat vyabhi carati tat Asat*). That idea which is eternal can never be absent (*Abhāva*). *Nabhāvo vidyate Satah.* But that which does not remain steady and is capable of being negated and falsified is non-eternal (*Nāsatah Vidyate bhāva*).

From the above definition it is clear that philosophy consists in an ordering of our concepts. It examines the concepts (*Samiksyā*) and tries to find out the steady, the persistent, the unchanging and the eternal ideas as distinguished from the unsteady, the corrigible and the non-eternal by a kind of logical analysis of our concepts. That philosophy is concerned only with the reordering of concepts by examining their sentral relation is clear from the opening lines of the *Adhyās Bhāsya* of Samkara. He begins his chapter by pointing out that the idea of subject and object are opposed to one another like light and darkness and therefore are mutually exclusive. Any combination of the two is logically unsound. The subject is eternal and is incorrigible. The object is non-eternal and corrigible. Their combination in any judgement cannot yield right knowledge in as much as this combination unites the eternal and the non-eternal. The author of *Vivaran Prameya Samgrah* clarities this point further. According to this author, philosophic knowledge is confined to conceptual analysis. The knowledge obtained by this kind of analysis has no factual claim. As a matter of fact, light and darkness may co-exist together

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in empirically observable world. A statement like "here is darkness and light together" may be true depending upon circumstances. The logically mutual exclusive relation does not obtain at the factual level. The thing called light and the thing called darkness may co-exist in the world. But the idea of light and the idea of darkness are logical opposites in as much as they signify logically opposite character. If we combine white paint with dark paint we do not feel any opposition. But what we cannot do is to combine the two ideas of light and darkness. Similarly, we describe a thing by ascribing characteristics to it and by classifying it.

But if we look to the way the subject idea functions and the predicate idea functions we find that one of them is steady, eternal and incorrigible and the other is non-steady, non-eternal and corrigible. If I judge a thing as a snake and then judge the same thing as rope I find that the predicate ideas of "snake" and the "rope" belong to the sphere of corrigibility. One changes its place and yields it to the other. What I judge first as a snake I may judge it as a rope and vice versa. But the thing judged remains as it is. So the demonstrative symbol which refers to the thing, signifies something which is unchanging and eternal. In the two judgements, "this is a snake", "this is not a snake but a rope", whatever is signified by the symbol 'this' is the non-changing and the eternal. But the rest of the judgement signifies what is changeable, corrigible and non-eternal. Philosophy is interested in marking out eternal and incorrigible elements in our knowledge and discourse. Samkara, therefore, defines philosophy in his Geeta Bhasya thus: The symbol 'that' is a universal name which is applicable in all cases of making statements. *(Tat Pada Sarvanāma).* Its signification is *Thatness.* The knowledge of *thatness* is philosophical knowledge. *(Tatpada Sarvanāma, Tasya bhāva Tattvatat visayakjnana I'attva jnana.* This definition covers what we have discussed about the nature of the logical subject and the logical predicate. Another eternal and persistent idea which the *vedāntins* have spotted out in our conceptual system is the idea of existence (*San*). The *Advait* arguments in this context are as follows. We assert the existence of different objects on different occasions of assertion. In all these cases, the idea of existence is persistent (*Ghata San pat San)* where the objects whose existence is asserted are variable. So the idea of existence is a presistent and eternal idea. This also is covered by the definition given above. The idea of existence is formally implied in all cases where a demonstrative symbol is used to refer to the subject about which information or description is sought to be given. According to the Advaitins, no judgment can ever be existentially delusive. Delusion enters only in respect of judging but not what is

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judged. So the demonstrative symbol never fails in attaching itself to the point of reference in the desert when I judge this is water I misjudge the point of reference. But that which is misjudged remains unaffected by my misjudging it. So the idea of existence never fails though the objects of which the existence is asserted may not be there. The idea of existence and the idea of *thatness* are not exclusive of one another. They are as A. J. Ayer says in his *Problem of Knowledge*, sleeping partners. They do the same job twice over. Nobody can say that this does not exist. Nor is it significant to assert that this exists. The first assertion is a contradiction and the second is a mere tautology. In the first statement, 'does not exist', contradicts what is signified by 'that' and in the second, 'exist' does the work of 'that' twice over. So the definition of philosophy as knowledge of *thatness* includes in it the knowledge of existence. Philosophy therefore is the knowledge of the persistent or the *Sat*. Another persistent idea which is spotted by the *Vedāntins* is the idea of awareness. According to them, in matters of acquiring knowledge when I am aware of the presence of the pot before me the object may not be a pot but may be something else. But my awareness cannot be denied. The objects seen in the dream are not there but my awareness of them cannot be denied. To assert that this is a pot but I am not aware of it is a contradiction in terms. To assert the existence of anything is to imply the awareness of it. So the idea of awareness (*Cit*) is a persistent idea which remains steady through out our cognitive activity. These ideas are self complete which are not affected by being attached to the ideas of changing objects. A completeness which can neither be increased nor can be diminished by the ideas of changing objects is the idea of eternal bliss. Since the awareness cannot be denied although the objects of awareness can be denied. So, awareness is a self complete idea. Similarly the assertion this is water the idea of water can be contradicted but the idea of thisness can never be contradicted. These ideas are not affected by the vagaries of objectivisation. That which is never affected in any manner can neither be increased nor can be diminished. Self completeness is eternal bliss. Philosophy gives the knowledge of thatness, awaress and self completeness as eternal idea in our intelligible discourse. (*Sachidānanda*). Here blissfulness is another name for self-completeness. It is not in the sense of happiness enjoyed by a person. To say that an idea is self complete is to say that it is blissfulness. The word blissfulness is a synonym of self completeness. Since the ideas of thatness and awareness are not affected in any manner when attached to this or that predicate or detached from this or that predicate these ideas are complete within themselves. The idea which

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remains steady within itself and never undergoes any change is the idea of blissfulness. Ideas of pleasure and pain are contingent ideas where as the idea of blissfulness is eternal, persistent and unchangeable. The ideas of pleasure and pain are not considered here in their subjective connotation signifying pleasurable and painful experience. They are considered from the standpoint of their logical behaviour as signifying as changing ideas. An experienced pleasure or pain is temporary and changeable. By contrast, a stead fast idea which does not undergo any change is said to be a blissful idea. So the ideas of thatness, existence, awareness, and completeness all together form the logical group and their steadiness is regarded to be their blissfulness. Here the idea of blissfulness has undergone a revision beyond recognition being divested of its conditions of usual employment. The idea of blisfulness is said to be beyond the transitory ideas of pleasure and pain in the *Vedānta* literature. Here the *Vedāntins* seem to be carried away by a metaphor. An idea which is self complete is said to be enjoying its self completion and the word 'enjoying' seems to have clouded the logicians' vision in pursuading him to regard a selfcomplete idea is as an idea of eternal enjoyment. Nothing further has been stated for amplifying the idea of blissfulness except that whatever is self complete is blissful through out the *vedānta* literature. So blissful is just a synonym for self completeness.

We can now make an attempt to characterise the method that is employed by the *Advaitins*. According to these philosophers the method of philosophy is critical analysis (*Samiksyā*).

In the foregoing paragraphs we have seen that Samkara reaches the conclusion that philosophic knowledge gives us the knowledge of (*Saccidānanda*). This knowledge is concerned with the eternal elements as distinguished from non-eternal elements among our concepts, (*Nityānitya Vastu Viveka*). To mark out these eternal elements as distinguished from non-eternal elements Samkara and his followers have followed two routes. They have examined the propositional forms and the judgemental or cognitive forms. They have made analysis of the linguistic forms and spotted out that the logical subject is a persistent element but the predicate element is not. This examination is called the examination of linguistic forms from the standpoint of meaning. The knowledge obtained through this source is called knowledge gained through the logical analysis of propositional forms (*Sruti jnāna*). In Indian philosophy, knowledge by linguistic analysis (*Sruti jnāna*) is defined thus ; Knowledge obtained by analysis of meaning of propositions is linguistic knowledge. *Vākya Yanitam*

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Vākyartha Jnānam Sruti) Samkara and his followers declare that *Sabda* (linguistic analysis) *Sruti* (logical analysis of meaning) *Sāstra* (Meaning rules of language), constitute the proper method (*Pramāna)* of philosophy. The word *Sastra* has at least two meanings. It signifies scriptural texts or proper adequate analysis of meaning rules of language. Samkara clearly declares in his *Geeta Bhāsya* that he is using the word *Sāstra* in the latter sense. According to him Sāstra means conventional meaning rules of language which keep the linguistic forms within the sphere of meaningfulness (Samsanāt kathanāt sāstra). According to him, the word '*Sāstra*' is derived from the root '*Sanas*' which signifies speech. So he declares that logical analysis of linguistic forms is the proper method of philosophic knowledge. (*Srutyādayah yathā sambhava iha pramāna*). Thus, Samkara clearly and unequivocally states that the source of philosophic knowledge is linguistic analysis. But surprisingly enough the scholars of Indian philosophy have misunderstood his method as signifying scriptural testimony. Another word which the *Vedāntins* have used is Āgoma. *Sruti jnāna*, means that which is not there but which comes by an analysis of meaning rules. What an assertion states is there. But if we analyse the form of the statement and pursue the implication of different elements of it we find that the manner of the occurrence of these elements is different. This knowledge of the difference between the two elements becomes known by a kind of logical analysis. So knowledge by *Āgama* is the same as knowledge by the logical analysis of propositional forms. Thus, *Āgama*, *Sruti*, *Sabda*, and *Sāstra* stand for logical analysis of the propositional symbolism. But one does not understand how the meditatians upon the meaning of the scriptural texts bodily (*Anubhavāngatva*) enters into an intuitive awareness of God. But in our interpretation, the meaning of the passage becomes absolutely plain and simple. The passage simply states that logical analysis of the propositional forms in which cognitive assertions are made is the only proper method of philosophic knowledge. Subsequent writers on Indian Philosophy have not caerefully attended to the actual texts written by Samkara and his followers. Since the words *Sabda*, *Sruti* and *Sāstra* are used interchangeably in these texts and since the word *Sāstra* in one of its significations stands for scriptures all these scholars have understood *Sabda Pramāna* as the authoritative knowledge as given by the Scriptures. But *Sabda* and *Sruti* univocally signify language and linguistic forms and nothing else. They have rendered *Sabda* and *Sruti* as verbal knowledge but failing to understand its proper significance as logical analysis of language and finding that the word *Sastra* is synonymously used for the expression, scriptures and being guided by the one conventional meaning of that equivocal word 'Sastra', they have translated verbal knowledge as the knowledge

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gained through logical analysis of language assingifying verbal testimony and scriptural knowledge. Thus tradition has represented Samkara and his followers as dogmatic philosophers relying upon the authority of the scriptures as the only source of philosaphic knowledge. But the philosophers themselves, have reached their philosophic conclusion by steadily pursuing the path of logical analysis of linguistics forms which they call knowledge gained through the logical analysis of language (*Sruti pramāna and Sabda pramāna*). According to Samkara, authority or revealed text can never be a source of knowledge. He has repeatedly declared that authority of revealed texts can never be a source of knowledge. Simply because something has been given in the scripture, it cannot be accepted as knowledge unless it stands the scrutiny of logic and passes the test of conforming to the concentional meaning of language and logic. In his own words, a thousand scriptures can never turn the knowledge of a pot to the knowledge of cloth. In other words, the pot is a pot even though thousand scriptures tell us that it is a cloth. According to him, right cognition is objective (*Vastutantra*) and is not dependent upon scriptuaal testimony which gives only direction as to what a religious man should and should not do and therefore directs man in the matters of religious ritual (*Purusa vyāpāra tantarā*). One rout leading to philosophic knowledge, namely logical analysis of linguistic forms (*Sruti Pramāna*) as pointed out by Samkara and his followers we have surveyed. We shall now survey the other rout pointed out by them namely, logical analysis of cognitive forms. In all cases of awareness according to these philosopers we are never sure about the nature of the object of which we are aware. But we are absolutely sure of the awareness as undeniable or indubitable. What I judge as a table may not be a table. It may be dobted or denied. But whether I have correctly judged misjudged, my judging is there as indubitable. Similarly, the object seen in waking or dream experience may not be there. It may be doubted or denied but my experiencing can never be doubted or denied. Again since the same object may be judged as big and small, short and long, square and round, bright and dim, etc. depending upon the conditions of perception physical physiological distance etc. and since I cannot ascribe these contradictory qualities to the same thing it must be declared that the thing is non-qualified (*Nirguna*). So logical examination of perception as the commonly accepted source of knowledge reveals that non of the qualities which we ascribe to an object on the basis of observation is really ascribable to it, of course not as a matter of fact but from the stand point of sound logic. So logical examination of cognitive forms reveals that what we belive as a matter of fact is not logically sound. What is logically undeniable is the idea of concious awareness and non-qualifiedness.

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So the factual knowledge obtained through the conventioeal methods of knowledge like preception and infereneces etc. is contingent (*Aparāvidyā*) in character in as much as they can be doubted and denied from the stand point of logic. But philosophic knowledge obtained through the critical analysis of cognitive forms is indubitable undeniable and certain (*Parā Vidyā*). So one of the sources of philosophic knowledge is logical analysis of cognitive forms (*Anubhavādayachayathā Sambhaniha pramāna*). So according tc Samkara, and his followers logical analysis (*Sabda*) is the proper method of philosophic knowledge. This logical analysis proceeds on two lines, logical analysis of linguistic forms is one method, critical analysis of cognitive form is the other. In other words logical analysis of licguistic and cognitive forms constitutes the proper method of philosophy (*Srutyādaya Anubhavādayacha yathā sambhava iha pramāna*).

Samkara's oft quoted lines in this context are as follows : Logical analysis of linguistic forms in which we express our cognition is the proper method of philosophy (*Srutyānugrahita tarka anubhavāngatvena āshriyate*). The traditional scholars who do not understand the meaning of the word *Srutyānugrahita tarka* as signifying logical analysis of discourse have fumbled over this passage. Accarding to them arguments in conformity to scriptural texts is recommended by Samkara for common man for obtaining metaphysical knowledge. But for the enlightened, the direct awareness of the intuitive knowledge of God is the only source.

Knowledge gained through preception, inference etc. is called modal knowledge (*Vriti jnāna*). In as much as perception is a mode of knowing so also inference etc. are different and distinguishable modes of knowing. This kind of knowledge, therefore, is mode dependent (*Paroksya*), through another. But analysis of lingustic forms or cognitive forms which is not confined to any particular actual proposition and actual case of knowledge provides direct knowledge (*Aparoksya*), while knowing something by perception etc. I am depending on a mode of knowing but I am undergoing an actual perocess of perception etc. But when I analyse the form of cognition I have withdrawn from any actul process. I directly understanding the nature of meaning which is understood. Here understanding is dependent upon itself and not upon anything else. Similarly, when I examine the nature of the cognitive forms. I am examining the nature of cognition itself. Here cognition is dependent on and confined to cognition itself. This is direct knowledge (Aparoksyānubhuti) does not signify, as scholars have understood it intuitive knowledge. In *Advait* scheme of logical analysis intuition has no place at all. Intuition is mystical as dependence

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upon authority is dogmatic. But logical analysis is clarity full and entire. Samkara does not make a wholesale condemnation of logic in his philosophical programme. Two types of logical arguments are denounced by him as unsuitable for philosophical discussion. One is extrapolation and the other is more speculation by negative implication and *Suska Taraka*. The philosophical arguments employed by the *Sankhāyaite* to prove the existance of a trascendental deity is condemned by Samkara as absurd and useless. He satirically calls these philosophers as creation speculators (*Srustichintakāh*). Accordiug to him, inductive arguments are valid within the sphere of empirical observation. From the observation of empirical facts one can generalise about the behaviour of unobserved but observable events to unobserved events. (*Vikārobhyo Vikārāntrara darshanāt*). But from the observed behaviour of empirical objects nothing can be inferred about the nature of transcendental objects like the theologian's God and the creater who stands outside the so called, Created world and is unobservable in principle being devoid of emperical characteristics. Similarly a philosophical programme which is engaged in delineating the order and the course of evolution is merely speculative. This is a field for the scientist to obseve with his methods of observation and experiment and the philosoper's speculation is of no avail here. To the *Sankhya question* as to the purpose of creation Samkara has nothing but a scornful attitude. In his *Geeta Bhāsya*, he emphaticlly declares that why does the world exist is a meaningless question, the world is there and that is the end of the matter. Samkara also condemns the *vaisesika* arguments by negative implications about the existance of eternal atoms. Accordins to the *Vaisesikas*, the negative idea non-eternal (*Anitya*) implies by negateve implication the eternal (*Nitya*) as its criterion. According to these philosophers, we could not have condemned anything as the non-eternal unless we were aware of a criterion of eternity. So the non-eternal composite thing of the world implies the existance of simple eternal atoms. This kind of argument is condemned by Samkara as verbal quibling(*Suska Tarka*). The logic which he recommends as the only suitable method is the critical examination of our conceptual system. (*Sabda Pramāna*). The word '*Sabda*', signifies verbal sounds with meanings. So examination of meanings of words, sentences, types of sentences is the only source of philosophical knowledge. In this programme of examination of meanings the criterion or the principles of classification is the eternal and persistent ideas as distinguished from non-eternal ideas This is a kind of reordering of concepts according to a definite principle of distingushing the eternal the incorrigible from the non-eternal and the corrigible. This method of reclassifying concept is applied to the general propositional symbolism and also to the cognitive ideas (*Srutyādayah*

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Anubhavādayacha) Samkara's philosopy, therefore consists of two parts (I) Theory of language (II) theory of knowledge. The ideas of *thatness*, *existence* and non-objective consciousness are marked out as eternal ideas through out our intelligible discourse. All other ldeas of body, mind, senses, the sun, the moon, the mountain etc. are down graded as corrigible, chalangeable and non-eternal ideas (*Prapancha*, *Anitya* and *Abhava*). This is a kind of revisionary metaphysics which places certain key ideas at the centre and down grades all other ideas to the periphery. This kind of metaphysics has no parallel in the West. This is not speculative because it condemns speculative philosophy about transempirical entities in unmistakable terms as shown above. This is neither empiricism nor rationalism. It declares that experience which is the sole authority is the empirical matters is of no avail in philosophical investigation. Critical analysis is the only method of study in phiosophical examination of concepts and their classifcation. It is also not rationalism in as much as it equally condemns studying formal implication of concept like the non-eternal implying the eternal as accepted by the *vaisesikas*. Logical analysis of discourse is the only method advocated by it as the only suitable philosophical meahod. While acknowledging the claim of empirical observation in knowledge of matters of fact, the Advait metaphysics is neither idealism nor realism. It does not declare that the objects of knowledge are mere ideas or perception nor does it assert that objects of knowledge are independent of knowing. It simply does not raise the question wheather the objects of knowledge are and or not independent of knowledge. It is not either dualism or monism in the sense of asserting two indepeneent entities like body and mind or declaring that mind alone is real or body alone is real. For the *Advaitin*, both the ideas of body and mind are mere concepts. They can only occur as predicates in propositional symbolism. They are free-floating universals. They belong to the sphere of corrigibility and falsifiability. The mind is regarded to be subtler than the body but not as having an opposite characteristics of non-extension and thought. The *Saccidānanda* of *Advait* is not the name of an entity. The *Sat* and *Cit* are mere persistent and eternal ideas marked out in course of an examination of language and discourse.

Philosophy has beeh defined as a search for what is ultimately real. Traditional scholars of *Advait Vedanta* accert Samkara's philosophical programme as a search for what is ultimately real. According to these scholars, the word *Sat* and *Anruta* stand for the real and the unreal. But *Anruta* does not signyfy the unreal but it signifyes the non-eternal among our ideas. Similarly the word *Sat* does not signify the real but what is

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present and eternal among our ideas. That idea in our discourse which is not capable of change is the eternal or *Sat* (*Yat Visayā budhi na vyabhicharati tat sat*). The logical subject is the *Brahman* or the eternal and this is asserted with reference to the manner of occurrence of the subject term in the propositional symbolism. Syimimilarly, all ideas of objects which appear only as predicate terms are declared to be non-eternal, non-saturated, corrigible and falsifiable (*Mithyā*). So Samkar's assertion that *Brahman* is etarnal but the world is not (*Brahman Satya Jagat Mithyā*) simply signifies that the logical subject is eternal, incorrigible, and saturated where as the logical predicate is corrigible, non-saturated and changeable.

Samkara anticipates an objection to his philosophical programme. If the philosophical knowledge has no factual claim and if it is neither of empirical world and of the transemperical world then such knowledge is useless in as much as it does not serve any purpose. To this, Samkara gives the answer that this kind of examination of concepts illumines the mind, removes ignorance and liberates the intellect from the bewitchment by language. According to Samkara, the knowledge that tresemountains, rivers and men etc. signify class concepts as distinguished from logical subject and that there is a fundamental difference in the manner of occurence of the subject term and the predicate term is of sufficient interest for a philosopher who is engaged in the logical analysis of language, The satisfaction that the philosopher derives from this type of knowledge is intellectual pleasure as distinguished from the momentary pleasures of the senses. Samkara is not at all a mystic nor a transcendentalist. He does not speak of the leberation of the soul after death in a transempirical world. For him libatation is attainable in this life (*Jivan Mukti*). This libaration means freedom from the wrong pictures created and fostered by language. Critical examination of concepts destroys this false picture which holds the mind captive. This is what Samkara means by liberation attainable by knowledge (*Jnāna Mārga*) in this life and no where elese. (*Jivan Mukti*).

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LINGUISTIC ANALYSIS AND INDIAN PHILOSOPHICAL TRADITION. *

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(1)

Various things have been said regarding the Indian tradition. They are so diverse that some people go to the extent of saying there is no Indian tradition, but that there are only regional traditions in India.[1] I shall not controvert this in my present article though I disagree with it completely. I start this paper with the assumption that there is an Indian tradition though it is something very complex. Its components—the beliefs, observances, religious and social ideas, etc. should not bewilder one to overlook what is common to all of them.

The present paper discusses the challanges which could come from contemporary western philosophy to Indian philosophical tradition. 'Recent western philosophy' is itself a vague phrase which points out to more than one philosophical movements in west. I shall take up the most dominant of these—the linguistic analysis—and try to delineate its possible relationship ***vis a vis*** the Indian philosophical tradition. Linguistic analysis is almost the accepted philosophy now a days in all the English speaking countries and many philosophers view it to be some sort of a danger to the Indian philosophical tradition.[2] Thus my aim is very limited in this paper though some of the remarks I would give here can be applied ***mutatis mutandis*** to other aspects of the Indian tradition.

I said in the begining that various things have been said about the Indian tradition. An exhaustive list with apt quotations about all that has been said would be very interesting but I would not do that here. I shall merely point out and classify some of the important things that have been said. Firstly, there are the persons who love the Indian tradition so much

1. V. C. Bhutani, "Is There An *Indian* Culture," *Quest*, July-August, p. 49.
2. Swami Ranganathananda, *The Message of the Upanisada*. Bharatiya Vidya Bhavan, Bombay, 1968.

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that they do not find any fault with it, take it to be perfect, and powerful enough to give us all that we need now a days. On the other hand, there are others who think the opposite, they concede the presence of a strong tradition in India, but they take it to be a burden which should be given up as soon as possible, to usher in a modern and progressive India. In between these two extremes of *Sanatanism* and modernism, there is the view of the middle of the road, which says that India has a glorious tradition, but it need not be accepted *in to to* in view of the changed circumstances and conditions.[3] A part of it should continue, but also some part of it should go and new traditions should be created in its place. Those who advocate this view may differ widely among themselves regarding the precise part of the tradition which should be continued, and those things that have to be newly created and developed. But that is another matter.

Let me point out the structure of the thinking of these middle of the road thinkers. They, *a la* Sankara, distingwished beeween *Sruti* and *Smruti*.[4] Usually the four *Vedas* with their *Upanisadas* comprise the *Sruti*, and the *Gita*, Purana and the different *Dharma Sastras* make up the *Smrutis*. What the *Sruties* say are taken to be absolutely true "capable of universal application" and "are relevant for all time" where as the *Smrutis* are relatively true, "their significance is merely local and temporary". In any point of dispute *Sruti* has to be referred to *Smruti*. Sankara argues in this way in many places in his commentry on the *Brahma-Sutra*. *Smruti* contains "Knowledge depending on the person", *purusatantrajnana*, which "can be modified or altered by human effort", *Kartum akartum anyatha kartum sakyate*.[5] Interpreting Sankara in this way, the middle of the road thinkers, argue that in discussing the Indian tradition in any of its aspect, this distinction which does justice to the concept of tradition, the unchanging *Sruti* part and the changing *Smruti* part, should be kept in mind. Generalising on this, one can say that, every tradition has its *Sruti* or the essential part and the *Smruti* or the secondary part which may change from time to time.

This model can equally be applied to the lingustic conception of philosophy as a tradition. The basic principles which guide this movement can be taken to be its *Sruti* aspect and the various conclusions arrived at by analysing different concepts by different thinkers can be taken to be its

3. *Ibid.*, p. 9.
4. *Ibid.*, p. 9.
5. Wittgenstain, *Philosophical Investigations*. Basil Blackwell, Oxford, 1967, Section 43.

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Smruti aspect. That phiosophical difficulties arise because philosophers misdescribe and misconstrue our language, that "the meaning of a word is its use in the language",[6] that philosopy should "in no way interfere with the actual use of language; it can in the end only describe it, etc., or its *Sruti* where as the particular conclusion regarding private language arrived at by Wittgenstein[7] or on mind by Ryle, etc , for it *Smruti*. Their answers may not be taken to be final and may be challanged by looking again to the surrounding concepts and their logical geography. One may raise here an objection by saying that in India philosophical tradition *Sruti* has been accepted without any arguments where as a host of arguments can be given and have actually been given in support of the essential principles of lingustic analysis. Hence *Sruti* and linguistic analysis should not be associated as the former smacks of authority where as the latter is critical. But then, all the arguments given in support of the fundamental principles of lingustic analysis really have assumed them as the arguments in support of the *Sruti* do. But it is important to note here that though usually the ordinary language philosophers avoid general methodological discussions, yet they stick to their job of analysis and produce particular results in regard to important philosophical concepts. Some is the case with the supporters of the *Sruti*, who attempting to justify the authority of the *Vedas*, have produced astounding results concerning language as symbol, meaning and reality, etc. Their success in these fields give a pragmatic justification to their basic assumption of the authority of the *Vedas*.

Criticism, justification and reasoning broadly proceeds in two different ways in Indian philosophical tradition. In the first varity, one goes from a secondary principle to a higher principle and when challanged goes to a still higher one, until he reaches at some principle of the *Sruti*. Reasoning proceeds in this way when the argument is confind to persons having the same tradition. Sankara while arguing out the view that the omniscient Brahman only is the cause of the world, refutes the *Samkhyan* view and asserts that "where there is contradiction (between *Sruti* and *Smruti*) (*Smruti*) is to be disregarded; in case of there being no (contradiction) (*Smruti* is to be recgnised) as there is inference (of *Smruti* being founded on *Sruti*)—*Birodhe tvanapaksyam syadasati iha anumanam*.[8]

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6. *Ibid.*, Section, 43.
7. See my paper "Can There Be A Private Language" *Bharati*, Utkal University Journal, Humanities, Vol. V. July 1971, No. 8.
8. George Thibaut, *Vedanta Sustras*, Motilal Banarasidas, Varanasi, 1962, p. 293.

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This does not happen when one is engaged in argument with a person of another tradition. There another structure is displayed. The appeal then is usually to reason only, which may consist of ,in pointing out the opponent's oddities, his inconsistencies, and other fallacies involved. For example, Sankara while arguing with the Budhists in regard to their view of universal non-permanency, controverts the Buddhists' view of aggregates.[9] Analyzing the meaning of the concept aggregate which presupposes "an intelligent being" who would make an aggregate possible or many intelligent beings who can congregate, Sankara argues that the Buddhists, concept of atoms does not comply with any of these rules. Now even if by stipulation one says that atoms possess activity, the difficulty is not solved, as then release would be impossible from these ever active atoms as they would be always forming aggregates. And thus the argument proceeds, without appealing to the *Sruti*. The structure of reasoning here clearly reveals the importance that was given to reasoning without *Sruti* in the Indian philosophical tradition. Conversions of people of one tradition to another tradition in India have taken place through such reasonings only. Thus unlike what many western philosophers have said, Indian tradition essentially is critical and discursive.

(2)

A tradition always implies a group of persons whose tradition it is, the persons who live their lives according to it and are inspired by it. Of course, it is possible that a tradition may be there as a matter of historical researches though its followers are all extinct, or who have changed their loyality to another traditions. But in such a case the term tradition should be kept within the inverted commas. Thus a tradition is always a living thing which changes according to circumstances but a part of it still continues in spite of everything. However, nobody would take the relationship between the group of people and the tradition they adhere to, to be inseparable one. It is not an inseparable one even in the case of one's *Sruti*. Whatever respect people might have given to their tradition by saying it to be *apauruseya*, *sabda*, etc., they were conscious of this contigent relationship as there has always been alternative tradition like Jainism, Buddhism, etc., and people adhering to one, have time and again changed to another,

9. Swami Agenananda Bharati, *A Functional Analysis of Indian Thought And Its Social Margins*. The Chowkhamba Sanskrit Series Office, Varanasi, 1964.

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Tradition is not only a group of opinions, beliefs or customs handed down from ancestors to posterity. This "handing down" phrase indicates the other important part of the meaning sorrounding the concept of *parampara*. People who hand down the rules love it as *parampara* and the people who received them accept them with love and reverence also. Thus this word is surcharged with emotion, the pro-attitude of the people who belive it. The word is not only informative but also evaluative. Some of the use prove it further. The Lord says to Arjuna, "I taught this imperishable Yoga to *Vivasvat* : *Vivasvat* taught it to *Manu*. *Manu* taught to *Ikshvaku*." The Lord proceeds on, "This, handed down thus in succession, the king sages learnt. This Yoga, by long lapse of time, has been lost here, o harasser of foes."[10] Clearly the appeal is made here to tradition which prepares Arjuna to accept it. Earlier Arjuna d.d the same thing while presenting his case to Sri *Krushna-bhabatityanususrma*.[11] The *Sruti* or tradition is an evaluative word. This in turn implies that what a tradition contains, its descriptive part, must be believed and practised, supported and fought for, by a group of people. As I have shown, the structure of Indian philosophical tradition has always been rational and critical. If the group of people who belong to this tradition continue to remain rational, there is no reason for them to reject it.

Linguistic ana lysis is no threat as it is descriptive and analytical, which aims at solving philosophical difficulties by determining how a language is in fact used. It is a value neutral methodology, a methodology of reason. There would be philosophers who would *a la* Strawson try to reveal the basic conceptual structure in the Indian philosophies, to find out what axiomatic assumptions have been made within her different philosophical systems. There would be also philosopers who would restrain themselves to the solution of specific prolems by analysing the frequently used concepts in Indian tradition. Both these procedures would bring out the different uses of the terms—their periphery uses, parasitic uses, and the basic and central ones. These uses would reveal the logical rules implicitly governing the concepts. Many superstitions, errors and fantasies of all kinds that have been incorporated in language would be brought out to notice, through such analysis. That would help us to distinguish the *Sruti* from *Smruti* aspects of the concepts, the essentsal from the secondary

10. *Bhagavad-Gita*, Chapter IV, Verse 1 and 2.
11. *Ibid*. Chapter I, Verse 44.

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ones. And there would be no point in not taking the philosophers who would do it as Indian philosophers as they would be perfectly in accordance with the Indian tradition.[12]

I should now apply the model to a particular concept and try to reveal its logical geography before I conclude this paper. Let me take the concept *darsan* for this purpose. In English the phrase "Indian philosophy" is used to refer to what I mean by *darsan*. Many in west and many Indians too, have taken excepttion to this translation, saying that, *darsan* and Philosophy are not the same things, darsan is "spiritual and esoteric" and no "intelectual game," whereas philosophy is critical and discursive."[13] This view, this particular interpretation of *darsan* has been criticised by Dayakrishna in many of his articles.[14] Though I agree with him, I would come to his conclusion in another way. Let me analyse the term *darsan* in the light of what I have said in the preceding sections.

The uses of the term *darsan* has to be taken in two groups, the uses which are there in the sanskrit texts, in one group, and the uses in the writings of the orientalists and the Indologists and the philosophers who came in the wake of English education in India, as another. I think, the uses made by the latter persons are not central and basic, as they tried to appear as the Europians wanted them to appear. The Europians approached India, coming from a different cultural background, and hence, it was natural on their part to see those characteristics with the Indians, which we significant by absence in their countries. But the peculiarity is this, that the Indian writers and intelectuals also, hared on the same characterstics to be the essential ones. In this way, *darsan* became asoteric, spiritual, "yoga" and "moksa" oriented, and many other things. Now, to separate the *smruti* from the *sruti* here, regarding the concept of *darsan*, one should go back to the uses made of it by the ancient texts. However, I must say here that the uses made by the Indologists, etc., did a job for a certain time, and perhaps helped in the revival of the Indian tradition and in the growth of the Europians' interest in it. But none the less, the uses can not be taken to be the central ones so far as the concept of *darsan* goes.

12. Rajendra Prasad, "Tradition, Progress, and Contemporary Indian Philosophy, *Philosophy East and West*, Vol. XV, No. 314, 1965, p. 251,
13. Swami Agehananda Bharti. *A Functional Analytis of Indian Thought and Its Social Margins*, p. 21.
14. Dayakrishna, "Three Conception of Indian Philosophy", *Philosophy East And West* Vol. XV No. 1, 1965, pp. 37/53.

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The word *darsan* derives from the root *drus* which literaly means "to see" or "to perceive." From the same root one gets *darsan* (*drus+An*) and *pasyati* (*drus+ti* with *pasyadesa* in place of *drus*). Now a use of *drus* in both these forms should be seen in order to understand the logical geography of the word *darsan.*

Literally taken *darsan* (or for that matter *pasyati*) implies the seeing activity (*darsan*) a seer (*drasta*) and an object that seen (*drsya*). But the object seen need not be an object in the ordinary sense, it may mean a point, a rule, an assumption, the summary of an argument, etc. To support my point, let me give some questions from the *Geeta.*

Yadyapyete na pasyanti lobhopahatacetasah
Kulaksayakrtam dosam mitradroha ca patakam (1.38)

This and the next verse, combinedly, can be translated as follows : Though these, whose intelligence is stricken by greed, perceive no sin in treachery to friends, yet 0 Janardana, should not we, who clearly see evil in the extinction of a family, learn to refrain from this sinful deed ?

Here "seeing" is not taken literally, The conclusion is given here and Arjuna gives the premises to support his conclusion in the verses that follow. Thus "seeing" here is "seeing" the summary of an argument,

Take another verse from the same source.
Ya nisa sarbabhutanam tasyam jagartti samjani
Yasyam jagrati bhutani sa nisa pasyoto muneh. (1.69)

This verse means: what is night to all beings, therein the self-controlled one is awake. Where all beings are awake that is the night of the sage who sees. Here *palyatah* is *paryasocayatah.* Take another one

Karmaneibahi samsiddhimasthita janakadayah
Lokasamgrahamebapi sampasyan kartumaharsi (3.20)

Here again *sampasyana* is *paryalocayan.* The verse means: By action only, indeed, did Janaka and others try to attain perfection. Even with a view to the protection of the masses thou shouldst perform (action).

All these examples show that *darsana* is understanding something, going to the basis or to the foundation of something. In this sense again, it was said, *Rusayah mantra drastarah: A rushi* is he who sees a mantra. And a mantra is that which is *mananayogya* or something which deserves to be thought about. The meaning of a mantra is further explicated as follows in *Mimamsa Nyaya Prakas.*

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Prayogakelena artho smarana hetutaya mantranam upayogah: A mantra is that which helps one in remembering the rules in different uses. A rushi is supposed to know the mantras. To give some examples: In establishing the *garhapatya agni*, one chants *basurdhara mantras*, etc. These mantras may contain the very foundation of a certain part of one's tradition, which may partain to agriculture or war or education, etc.

These uses show that *darsana* in India is analysing something, going to the foundation of something. It is *tattwabodhah*. *Darsana's* ordinary literary meaning and the meaning given to it by the Indologists, the Orientalists, should be avoided. Its central uses lie in the Sanskrit texts and they should determine its meaning.

I am aware that I am leaving many lose ends in this paper, one for example, the relationship beween *darsana* and *Moksa*. But that should be the subject matter for another paper.

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THE CONCEPT OF PRAYER.

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Different social sciences such as psychology, sociology and cultural history can study the activity of prayer. A psychologist can study such things as why do men pray, what is the impact of prayer on human mind and so on. Similarly, a sociologist can be interested in such questions as what is the relation of prayer to other religious and non-religious institutions and how does prayer affect the structure of social institutions, and so on. A cultural anthropologists or a historian of culture can study origin, evolution and different forms of prayer prevalent among different religious sects. But all these studies are factual or empirical studies of prayer.

In what follows, I will present a logical analysis of the concept of prayer. In other wards, I will explore analysis and determine the logical behaviour of the concept of prayer, Moreover, I will also unearth the basic presuppositions on which the concept of prayer stands.

Prayer is a linguistic activity. The reason why we say that prayer is a linguistic act is that we cannot pray without using language. There may be silent prayer but to pray silent does not mean not to use language. Prayer is to be distinguished from worship. In worshipping we give offer ings, burn incense and read sacred literature. Prayer and worship can be performed together but on this ground praying and worshipping do not become the same. Worshipping is mostly a non-linguistic acttivity where as praying is a linguistic one. To confuse worship with prayer is to confuse between a non-linguistic activity with a linguistic one. Again prayer is also to be distinguished from ordinary linguistic activity. An ordinary linguistic activity is carried on among human beings where as in prayer the linguistic activity is carried on between man and the superhuman being. Again, most of the ordinary linguistic activities aim at giving information. In fact, information-giving is one of the main functions of an ordinary linguistic activity, where as in prayer the linguistic activity does not aim at giving information. In prayer the linguistic operation aims at performing either one or more than one or all of the following activities.

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Prayer can either be confussionary, petitionary or obligatory. A prayer is petitionary when the person praying presents the wrongs done to him before the supernatural being and requests him (the supernatural being) to redress it. Sometimes this sort of prayer is performed in order to gain favour and blessings of the God-head. A prayer is confessionary when the person praying admits the evil deeds done by him and requests the superhuman being to forgive him. A prayer is obligatory when the person praying does not pray out of any ulterior motive but prays out of sheer feeling of gratitude and reverence. While praying, one may do either one of the functions or all the functions mentianed above. In fact, in praying one may confess, request and express one's sense of gratitude but for that matter an petitionary prayer does not become either confessionary prayer obligatory and vice versa.

Prayer presupposes that there is a superhuman being or God and he is omnipresent, Omniscient and Omnipotent,. The following arguments can be given in favour of these presumptions. If the superhuman being be not omnipresent the very act of prayer can not be conceived because prayer is conformed in any place as the person praying chooses. If the superhuman being is not present everywhere at every time everybody can not pray at every place. Therefore the superhuman being must be omnipresent. Similarly, if the superhuman being be not omniscient he cannot know what wrong is being done to which man and as a result of which petitionary prayer rests on the assumption that the almighty is in the know of everything. Again, if the superhuman being be not Omnipotent then the request of the person praying will not be significant. When we request somebody we presuppose that the person to whom we are making a request is capable of fulfilling the same. If we do not take it for granted than we cannot, in principle, be said to be making a request.

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AN EXAMINATION OF THE CONTROVERSIES REGARDING THE PROBLEM OF UNIVERSALS.*

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It is widely accepted that in the like objects there is the presence of an essence which is nothing but the cmmon point of similarity among them. On the basis of that common feature a class name or a general name is assigned to them. For example, the name 'table' is assigned to the kinds of thing where the essence, table-hood is present. This essence table-hood, is common to each and every particular of the table-class. The problem of Universals arises in objectively searching the essence, which is purely conceptual one.

This search for the essence among the particulars of a class is there since the Greek Philosopher Plato. It can be noticed that in *Parmenides* he has classified the things of the world into two groups on the basis of their participation with two ideas viz, either 'likeness' or 'unlikeness'[1]. And also he has assumed the presence of the single essential nature or 'form' for every set of things, which bear the same name[2]. In these considerations Plato has accepted the presence of an essence in the members of a class. This view, in some way or other, accepted for a long period.

Later on Pears[3] has pointed out that the metaphysical problem of Universals arises when the attempt is taken to answer the following questions.

(i) 'Why are the things as they are ?'

(ii) 'Why are the things named as such ?'

The first question can be analysed in this manner that if a thing is yellow why is it yellow ? If a thing is circular why is it circular ? If a thing is sweet why is it sweet ? But the pity is that these questions are not relevant with regard to philosophy and do not come within the ambit of philosophical analysis, rather they fall within the domain of science with which a scientist is concerned.

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The second question, which is important for the present purpose, injects the thought that when a number of particulars are put under the shade of one common name, on the ground that they share one common character, the problem arises in doubting the sharing of the single common character in all the particulars. And in this consideration it can be marked that the problem of naming has been identified with the problem of Universals and the problem sustains in the level of naming that why a common name is attributed to a set of things of a paricular sort ?

Now what follows from the above consideration is that the problem of naming is equivalent to the problem of Universals. If it is accepted then it is also necessary to accept that Universals are recognised through general names. This view leads to a circular argument that general names are given on the basis of the essential quality shared by them and this essential quality is nothing but the essence (Universals) of the things.

Even if the problem of Universals sustains through the problem of naming but many have accepted that Wittgenstein has given an important solution to this problem of naming. Wittgenstein maintains that the search for the common and essential property amongst a group of particulars, in order to include under one common name or general name is not necessary, rather is misleading.

In the section 66 of *Philosophical Investigations* Wittgenstein maintains that, "consider for example, the proceedings that we call games..... what common to them all? Dont say : 'there must be something or they would not be called 'game' but look and see whether there is anything common to all....." Further in the section 67 Wittgenstein maintains : "As the result of this examination is : we see a complicated net work of similarities overlapping and criss-crossing : sometimes overall similarities, sometimes similarities of detail."

Analysing the term 'games' he has shown that there cannot be any common character present with regard to all the games. The failure to find any generic property led him to conclude, "most, perhaps all general terms, have no Unitary meaning". His considertion of general names explicits the view that the things are not named not on the basis of any general or common property they possess but the 'use' of the term determines the 'name' of it. Bambrough[4] seem to widely support the notion of Wittgenstein and maintains that a game has no essential quality other than that it is a game.

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Bambrough reacns at this conclusion in analysing the different kinds of terms. He considers that all the terms are not of one cadre. The The fixed meaning is attributed to the group of cases where "similarities of detail" is seen. In this respect perhaps the geometrical terms like 'triangle' 'circle' possess fixed meaning. On the other hand there are also certain terms where the particulars of their reference do not possess the detail similarities. For example, 'table' 'game', 'shape' etc. Here overlapping and Criss-crossing of similarities are found and the meaning is not unitary one.

Possibily those who claim that all terms possess unitary meanings they confuse the overlapping cases to be the cases of detailed similarities. Here it can be remarked that Wittgenstein did not search for the Unitary or fixed meaning for he says that "All words philosophically interesting have no unitary or fixed meaning."

Subsequently Wittgenstein has given the solution to the problem of naming converting this problem to the problem of resemblance and speaks that the particulars of a general name possess a type of family resemblance only, like that of various 'resemblance' (build, features, colour of eyes, gait, temperament, etc.) possible between the members of a family.

Now Wittgenstein's and Bambraough's views can be summerised as thus, the metaphysical puzzlement of searching for the Universals is due to the craving for the essences. Essences do not exist, so also the Universals. Only a type of family resemblance exists. Neither there is any common property shared by all nor there is ony common point of similarity found with all. At best there may be complicated case of overlapping properties or the case of a complex structure of similarities.

Thus the problem of Universals which was identified with the problem of naming (by some) now has been converted to the problem of resemblances and the solution is offered that 'all general names are family names'. This discovery unfolds the truth that univerals were postulated due to the confusion of family names as general names. But this point of view has not been accepted to be sound one and has been criticised on several grounds. Wittgenstein and Bambrough's point of view that 'all general names are family names' becomes a new controversial point and Mc Closkey[5] points out that this view is not self sufficient and has not been consistently established.

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Mc Closkey points out that in saying all general names are family names they are committing the fallacy of begging the question. Here while denying the possibility of common character to the general names at least a common character has been determined.

Besides, such a statement can never be *apriori* for, Wittgenstein gives stress on looking and seeing in order to arrive at this point. And also there are exceptional general names like 'triangle' and 'circle' as general names. Naturally Wittgenstein's established view that 'game' is not general name but is a case of family name becomes unsatisfactory solution to the problem of naming, because here only those terms are taken into consideration which are suitable for the purpose. It is thus, mere a case of discovery that 'some apparent family names are really family names'. Therefore, it is clear that all general names are not taken into cosideration and all general names may not be family names. Rather in pointing that all names are family names they are only multiplying the number of general names or a singular general name has been claimed to be the case of a family of generalnames. For example, taking the property 'games have definite end' (either winning or defeat or draw) into cosidedration cricket, basketball, foot-ball, chess, etc. are grouped under one separate class and the games like patience and other self playing games are excluded from the class. Again taking the instruments of the games into consideration there can be many sub-classes like board-games, ball-games, card-games, etc. Like that of the adding differentia in order to differentiate the subclass from the genus class certain characteristics are taken into consideration to point out that a general name is nothing but the case of family names.

Mc Closkey secondly, points out that in accepting the names to be the family names here one only multiplies the number of general names. And ultimately there will be numourous general names corresponding to the number of characterstics possible.

II

In this section I want to discuss the importance of Mc Closkey's criticism to solve the problem of Universals. The first point of criticism is no doubt indefensible one. But merely pointing that it is the case of begging the question, in no way it helps to solve the problem, rather he tries to avoid the problem.

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The next point of criticism no doubt touches the kernel of the problem, but it seems to me that the criticism itself centers round a confusion. Here I shall try to meet the criticisms from Wittgenstein's standpoint. Mc Closkey points out that the statement 'All general names are family names' is not an *apr'ori* statement. I feel it has never been climed as *apriori* statement. n this context, he illustrates that 'triangle', 'circle' are general names unlike 'game' as a general name. But I feel to point out that it was not Wittgenstein's contention to distinguish the different categories of general names or he did not try to bring out the contrast between two types of general names. Moreover. the term 'triangle' is supposed to have fixed meaning for its unique reference, is misleading one for there can be different kinds of 'triangles' like 'isosceles triangles', 'right-angled triangles' etc. as there are different kinds of games. Besides, 'triangles' and 'circles' are all included with in a broder conception 'figure', which is a term in no way different from 'game' as a term. The point is that problem of universals sustains in searching for the class-essence either in case of ordinary general names like 'games', 'trees', 'horses', etc. or in case of mathematical or geometrical general names like 'triangle', 'circle', etc. What Wittgenstein points out is that the very attitude of searching for the class-essence, in any case, is misleading. No matter whether one searches in case of ordinary general names or in case of mathematical general names.

Further more, the notion of two different kinds of general names invites a new problem that in case of certain general names we can find the class-essence and in certain other cases we cannot find the class-essence, but only the resemblances. This view leads to the understanding that this Universal concept is not universal one by itself. What follows is that in certain cases, where the terms possess fixed meaning, universals can be recognised and in certain other cases due to the absence of fixed meaning universals cannot be recognised. This view can never be consistently maintained because the concept of universals cannot be denied as universal one.

A nominalist, may think in the manner that in case of 'red ink', 'red rose', 'red blood' the redness' is common to ink, rose and blood. On the basis of this 'redness' the general name red is assigned. Such a view point can be maintained only if it can be accepted that at some level the 'redness' can be separated from those of ink, rose and blood. But in the light of Wittgenstein's discussion that how to distinguish the light-red from dark-red; which sample should be taken as the standard (like that of the standard

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metre) the nominalist's point loses its strength. The use theory of meaning rightly suggests that it is the use what distinguishes 'light red' from 'dark red'. 'Red-ness' cannot be separated from red objects; 'beauty' cannot be separated from beautiful objects. 'Redness' and 'beauty' are ultimate and irreducibles. And for this reason Quine[6] points out that Universals do not commit ontologically. Further more, in saying that what is common to all games is that they are games, what is common to all red objects that they are red, the statements are nothing but tautological expressions of the form in As A is common to all. But the real problem is not that whether A is present in A or not, rather Why A is considered as A ? To this question a Wittgensteinian will give a reply that the 'use' of A acquaints us to consider it as A. As the 'use' acquaints us the distinction of red and light-red similarly the 'use' also helps to recognise red objects are red objects which are different from green objects, yellow objects, black objects and any other coloured objects.

Regarding the problem of the class and the class-concept out of which the problem of universals is supposed to be derived, I feel to maintain that the formation of any class is always to fulfill the human interest. For example, certain characteristics are there in our use like 'tall' and 'dwarf'. But in order to frame a 'tall class' and 'dwarf class' one has to fix a point according to his own requirement. It is the interest of the person, who is determining the class, that how much of the hight will satisfy his purpose. In this manner there can be a number of tall classes if various standards are fixed for various purposes. No where the tall class is present objectively, so also in the case of dwarf class. Sooner the tall class has been determined the dwarfclass has been differentiated from it. The determination of one class involves its separation from other classes. Another example may be taken into consideration. We often talk of 'social motives', 'economic motives', etc. but infact objectively different kinds of motives are not present. What happens is that only different kinds of approaches are characterised as such incourse of their 'use'. It may differ from one another. Thus the formation of class or formation of concepts is to fulfill our interest. No boundary line is given to it. We learn these, we acquire such knowledge by the way of acquainting us with its use.

And lastly, with regard to the claim that there will be numourous general names according to the number the specific properties is nothing but the case of the analysis of the multiple aspects of the the term or the multiple use of the term.

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III

I think that the dualism of the particulars and the universals is final. It is a metaphysical dualism between the concepts and percepts. It is not a factual dualism among objects, so that we can search for the fact that leads to dualism. So far as the objective world is concerned, which objects are present and which object stands in what configuration with the other, are perceptible. Because it is the world of given pictures. It is the totality of facts (Particular facts). It is second order consideration of some philosophers that behind the perceptible factual world there is a world of concepts. There are only certain metaphysical and logical distinctions between the two worlds.

The metaphysical distinction refer that between the two worlds one comes within space and time where as the other one is imaginary. Both are strictly opposed to each other in the logical aspect that one is the world of ralations and the other world constitutes the entities which are are not relations. One world constitutes objects denoted by verbs and the other constitutes objects denoted by substantives and so on. Wisdom[7] expresses the distinction in an effective language that 'Universals are qualities and relations; Particulars are this's and that's'. Universals are named by adjectives, prepositions and verbs; Particulars by demonstratives, pronouns and propernames. For example, when the relations like 'loving', 'hating' etc. away from relata, are the Universals. Similarly colours like 'red' and 'green' devoid of all the objective things are considered as Universals. "Universals qualify and relate pariculars and particulars give existence to Universals". Thus one cannot be known excluding the other. Inspite that they are strictly opposed to each other there exists an inseparable relation between them. In Kantian wordings it has been expressed as 'Percepts without concepts are blind and concepts without percepts are empty'. Now the possibility of two inseparably related words can at best be accepted in the world of language alone.

Fundamentally there are two different types of logic accepted with in the subject matter of Philosophy. One is a type of inferential logic where it is concerned with building up a system of particular inferential pattern and to verify whether the procedures adopted for inference are valid or invalid. For example, Aristotle has built a system of deductive logic, Mill has framed a system of Inductive Logic, Russell has framed a system of relational logic, etc. But other type of logic specially deals with the different aspects of language from the standpoint of meaning and elucidate

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the area of use of the difterent kinds of words. When somebody utters the words viz. 'tree' and next 'Socrates', the former refers to a kind of things and is considered as a common name and the latter refers to an individual and it is a propername. Somebody may also consider that the latter is not a proper name but is a type of logical construction. In this manner there are several ways how the words function in our language. Logicians of this order deal with the multiple aspects of the language so that if any dogma will designate in any one's mind, then that can be disposed of by developing the intellectual sharpness and by the help of linguistic analysis. Thus there is no harm in maintaining that the dualism of universals and particulars finnaly stands with regard to the world of language or logic and vanishes with regard to the world of facts.

But wisdom maintains the view that there can be two different types of facts. Universal facts and particular facts. Facts of the form 'Everything which has the character S has the character of P', and facts of the forms which has S has P' are universal and particular facts[8] respectively. But it is similar type of distinction that deductive logicians make between the universal and particular propositions. Inferential logic clearly maintains that the universal propositions do not have the existential import. The existence of the class' itself cannot be claimed. But particular proposition do have the value of existential import. Thus when Wisdom maintains the distinction by the help of universals facts and particular facts, the 'universal facts' is a contradiction in terms. If not then it will be inconsistent to the fnndamentals of inferrential logic. At best in Meinongian expression we can accept that classes subsist, do not exist; universals subsist do not exist.

In all, it is now truism that 'craving for generality' is the root cause of the metaphysical problem of Universals. By virtue of certain obvious resemblances, that we have learnt in course of its use, we include certain animals in the class 'cow'. But very much like the attitude of a scientist when one is tempted to find the 'cowness' in the individual cows he invites the problem. Cows are cows' Red rose is red. It is foolish to cover the cow with the transperent covering of 'cowness' and to rose with the covering of redness and simulteneously demand to percieve the covering. If a covering is applied only in the realm of language and it is wanted to be perceived objectively then it is in no way better than searching for the black cat in the darkroom where it is absent. The proplem arises in imposing the commitment in one level and demanding to find it out in another level.

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THE NEW ROLE OF SOCIOLOGISTS IN INDIA TODAY

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The great expectation from sociology today is that it must have proven utility. This goes in consonance with what Aristotle said in his NICHOMACHEAN ETHIC, "Everything (Intellectual discipline) should try to do some good". And, then, in as much as Sociology is a *social* science, it must be able to signify its utility to society by placing its whole accent on the social aspect. The sociologist must not stop at mere investigation of society. In fact, investigating society must have clear 'meaningful aims' without which it should be deemed as waste of time and effort. In other words, this becomes an added responsibility of the sociologist to see that the results of his investigation are utilised to further human welfare and progress. Precisely speaking, the sociologist of today should try to follow three basic principles: Firstly, he should aim at social utility; Secondly, he should write upon the subjects studied empirically and analytically (especially empirical studies, are entirely necessary); and lastly, he should use the ideas to try and *influence the direction of social change.* Now this is what the sociologists must do today. But contrary to what they should do, we find them busy with working out "Plausible sociologies". Their works may seem scientifically true, methodologically sound and explanationwise but barely adds anything to the growth of real understanding of the social phenomena around, not to speak of improvement of the social and economic milieu he works within.

Word polishing has become the main job with most of them. And much of the work being done abroad generally goes to two extremes-system building with words in total absence of concrete facts or highly over-refined statistical analysis without much regard to the historical backgrounds of previous and related studies of the same subjects.

The young sociologist should begin to understand that it is necessary for him to come into close contact with many communities,

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societies and cultures. A realization must dawn upon the sociologists that their discipline will become useless as a social science if it will have little or no meaning or application to reality situations.

It will be apt to put in this context what Prof. Yogendra Singh thinks while discussing the role of social sciences in India. He writes : "In my opinion greater use of history as a resource for understanding the various problems of our society may provide a sounder path by which Indian social science can bring about realistic correspondence of its theory and methodology with the Indian reality and the issues of its identity" (Y. Singh : 1973). It goes without saying that social theory to become useful must not only have application to reality but it should also have a sort of re-application to reality—changes that are desired or desirable.

As such the sociologist has got to be connected with most of the 'Constructive movements' which would help him and his discipline to gain the rightful position. This would be hoping against hope that every sociologist can be a genius; but this would be a legitimate expectation that every sociologist can use and should use whatever genius he possesses in a constructive manner. The sociologist must emphasize that his discipline is not only a natural science in the terms of "logical" neutrality of the scientist in regard to the phenomena studied but, at the same time, must try to make sociology and its choice of subjects a constructive science. That is, fiction of a "Value free" science is just that. No doubt, one must not let one's values colour his logical judgements. On the other hand, the purpose of sociology is for man to understand mankind and to make it truly human. Furthermore, the sociologist must emphasize upon the understanding and directing of 'fundamental social change' as a main aim of Sociology. Undoubtedly, this would differ from the popular trend of the structural-functional school but not withstanding that, sociology must alter today its focus as well as locus to become a realistic and constructive science. This 'directed social change' approach to sociology does not deny the value of observing and usderstanding the social structure but simply postulates that change is the single focus and the knowledge of structure is useful mainly as an aid to the interpretation, understanding and directing the social changes as considered desirable.

II

Alongwith the growing demand to modify the existing social relations and setting "growth with justice" as the major goal before

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the nation, is fast appearing the new role of a sociologist, for, in this sense his discipline represents an instrument of social policy. "With his expert knowledge of social relationships, the sociologist can help predict, control, and direct social change and speed up social progress". Prof. D. N. Majumdar wrote: "His knowledge of social facts is of help to arrange adjustments among social groups, Castes and classes and in destroying the sterile stereotypes that might hamper the smooth working of society's intra-and inter-group relations. It is in the field of causation and change that the sociologist's role of an engineer for the community rebuilding is manifest. The academician— sociologist in his role of social engineer has an important contribution to make in solving social problems. And it is here that the competence and ingenuity of the sociologist are put to test" (D. N. Majumdar : 1956). But now with the added maturity of his discipline and with the gains in competence and confidence, the sociologist can possibly take steps still forward. He can combine in his role if so called upon the tasks of goal—setting and goal—attainment and thus can enhance his contribution to society. And that is how sociology can play its full part as a tool of total social reconstruction and so was conceived by the father of the discipline (Comte) who regarded sociology as the social science "par excellence". Social reconstruction becomes a must if the social and economic arrangements go wrong, the social conditions appear to be frustrating, and the exploitation of the weaker sections becomes obvious. And in these national reconstruction plans and programmes the sociologist can positively contribute his full share if he is associated at all levels. This continuous association will also help in safeguarding against possible pitfalls and insure the successful implementation of the reconstruction programme. The sociologist can certainly make a meaningful contribution in this context if he gives to his activity a purposive reorientation and takes up his new role rather with commitment.

Prof. S. C. Dube while discussing the role of the intelligentsia comprising Bureaucracy, Political Leadership, Intellectuals and the Professions, in Newly Independent Countries writes: "Nation building requires, on the one hand holding in check all divisive forces; on the other, it needs the development of problem solving capabilities. In both, the role of the intelligentsia is clear. It comprises : (a) goal setting and goal definition—precise formulation of the proximate and ultimate objectives of national policy; (b) Communication and mobilization—informing and arousing the masses for participation; (C) Organisation and management—

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developing resources and capabilities, adaptation and production of knowledge, and ensuring their optimum utilization; (d) tension management—minimizing injuries of change and handling stress—producing situations; (e) fighting subversion of freedom—especially from outside, coming in several disguises and (f) evaluation and growth—keeping a watch on the intended and unintended consequences of policies, and tilting the latter towards progressive goals".

I wish that Prof. Dube in his scheme of segment-wise division of function amongst the intelligentsia had assigned a definite portfolio to the social scientist so that his role stood well-defined in India today but of one thing, we are pretty sure that he would recommend to go a step forward what the Indian sociologist has been doing hitherto say, by way of transmitting knowledge and developing problem solving abilities; interpreting social facts and research-grown material; production of new knowledge; and social criticism. However, we know it full well that so far the sociologist has confined himself to the study of the limited components only of our national policy formulation. Perhaps the time is ripe when he must also pay adequate attention to goals and instruments (S.C. Verma : 1971). In fact, the demands of new role should make the sociologist a full-fledged participant in the ongoing process of national reconstruction.

III

India is fast becoming new despite the fact that we still stand in the twilight of tradition and modernity.

We still appear to be uncertain and hesitant about the new goals of change. The result is that we are modernizing by and large not by design but by drift. And this is likely to hinder the process of directed social change. The new goals are colliding with those of the traditional order. And here comes the real role of a sociologist for he can advise on matters of social policy, and suggest solutions to the human problems that arise in the context of directed social change. Granting that changes are unavoidable and necessary, they can be well-attuned towards their acceptibility and identification with the people's life-styles. Happily, we are increasingly aware of the need of directed social change. As Robin Williams points out, the older doctrines stressing the slowness of change in the mores and the ineffectiveness to regulate conflict with customary practices and age-old characteristic norms have been under heavy assault of New Goals

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of change. We have to be prepared for an over-all change in the context of a total dynamic sociocultural situation, for, to quote Robin Williams once again, 'piecemeal change is easiest to effect but most difficult to stabilize'. Fundamental changes in the traditional order are, thus, clearly indicated and as such have become necessary as one can also view them against the declared aims of the promotion of democracy, of socialism, and of a temper of science and modern technology. The upsurge that we see all around us is the awakening of the new spirit of India. Now we need to build a new India. This is the responsibility of the sociologist, and to carry this responsibility with determination and competence is our *immediate* assignment. This is what the sociologist is largely expected to do. He should concentrate on this responsibility and assignment, and begin building India of tomorrow. This is not to suggest at all that Indian society has to make an entirely new beginning.

In fact, it is for the sociologist to investigate and indicate the potent parts of the existing culturebase and draw as well heavily from those 'bits' of its socio-cultural matrix that are favourably disposed towards directed social change.

While discussing the question of formulating the goals of change, Prof. S.C.Dube writes : "The new nations are thus left with one of the choices : (a) Conscious rejection of modernization, with a view to preserving and vitalizing the traditional ways of life; (b) Conscious rejection of the traditional order, with a view to adopting an alien model of modernization; (c) deliberate regulation of the content, direction and speed of modernizations, with a view to preserving certain specified elements of the traditional order; (d) deliberate regulation of the elements of the traditonal order, with a view to attaining certain specified goals of modernization". He goes on : "The final choice is fraught with tensions and anxieties. Ultimately the question is one of cost-benefit ratio analysis-both in the long and in the short run. Most nations which have to choose from these alternatives are in search of an identity. They can neither disown the past nor forgo the advantages of technological modernization". So, two big sociological questions pose themselves : What elements of the traditional base must we preserve, whatever the cost in terms of probable retardation of economic development? And what measures of technological modernization must we attain, what ever the dent or injury it may cause to the traditional fabric ? Now these are the problems which have to be attended to by the sociologists alone. It is a challenge to their competence and they must be able to provide the satisfactory and satisfying

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solutions. Of course, such solutions will have to be based on social investigations and field studies handled competently and the results of such social inquiries will have to be placed in the hands of the political leadership of our country so that an urgent and unambiguous decision can be taken in this regard. This is how a sociologist can be associated in a *constructive* manner with policy formulation and nation re-building. The sociologist should further be associated with devising a sound strategy of directed social change in as much as he can be of help in recognition of social complexities, forestalling the psychological barriers and the cultural impediments to directed change and in matters of working out a variable approach to the mechanics of implementation of the Reconstruction Programme. Another major task that awaits being attended to is the working out of the social and cultural prerequisites to economic development or modernization. In this regard, Prof. Dube's formulation includes : First, a developing nation needs an identity, an image of the future, and a sense of commitment. Second, the nation should have a clear perception of the desirability of change and faith in the possibility of change. Third, social flexibility or mobility is an essential precondition of economic development. Fourth, for rapid economic growth these countries will need much more social discipline and also a series of sanctions to enforce this discipline. Fifth, there should be preparedness to make considerable inputs in three major social overheads namely, communication, education, and health. Sixth, the success of plans for progress requires a dynamic and purposeful leadership. Seventh, institution building is a key step in the process of economic development. It may be added that institution building will have to cover what Lasswell calls the surveillance, the consensus, and the socialization mechanism of these societies. Finally, an endeavour will have to be made to inculcate a set of attitudes and values that are conducive to economic development and modernization. Several of these have been identified. The major among them are achievement motivation, strong secular aspirations, dynamic personality, calculating spirit, spirit of adventure and so on.

In a word, the total social structure of our country will have to be transformed if she wishes to take any rapid strides along the path of directed social change. Here, again, comes the real role of a sociologist to help translate an ideology constituting the New Goals into a social reality full of life and activity. In this way, by making a meaningful contribution even to the process of goal-setting in our country, the sociologist can assume today a constructive role.

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IV

Before we close we should like to re iterate certain notes of caution to a sociologist while he is preparing to undertake a new role. Alongside certain perspectives of relevance must be re-emphasized which cannot be lost sight of while determining this new role.

First and foremost, a realization must dawn that no more is the role of a sociologist in India a segregated scholarly role. The success of his discipline is organically related to his social praxis as the member of the Indian society. A society of which he is very much a part. Not merely a product of the society but, importantly enough, he is very much an agent himself participating in the ongoing process of directed social change. Plus he can certainly make a positive and meaningful contribution towards the re-making of his society. And he must be keenly alive to this new sense of his responsibility and social assignment.

Next, the relevance of the existing tools and conceptual kit available to sociology must be looked at in a historical perspective from the standpoint of a sociology of knowledge as the case has been very well made out by Prof. Yogendra Singh in his discussion of the role of social sciences in India. For, this becomes necessary for a sociologist to historically abstract the various categories before he proceeds to operationalize these concepts in the changing Indian context. Re-examination and re-adaptation are a must say, on the grounds of crosscultural and cross national validation and the time and spatial limitations of the conceptualizations of western sociology before we can safely apply them to the Indian social situation.

Lastly, his role in the Indian context deeply underlines the sociologist's role in the broader world system. The fact cannot be lost sight of that India's problems are, however, a part of the problems of the underdeveloped world which in turn are the resultant of the crises of the world system.

Alvin W. Gouldner has outlined the symptoms of a crisis in Western Sociology (Gouldner:1970). Despite the fact that his major focus has been Parsonsian "structural-functionalism", and the crisis it is facing in grappling the problems of the western society, his analysis should work as an eye-opener to the sociologist in India, especially so, when he is trying to equip himself to cope up with the problems arising in Indian social milieu. We must duly regard the offer of solutions which Gouldner

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proposes by way of his"Reflexive Sociology"; (a) The ultimate goal of Reflexive Sociology is the deepening of the " sociologist's own awareness" of who and what he is, that is, deepening of sociologist's self-awareness. (b) It seeks not an insulation but a transformation of the sociologist's self and hence for his praxis in the world. (c) It embodies a critique of the conventional roles and has a vision of an alternative. It aims at transforming the sociologist's relation to his work. Thus Gouldner's major attempt is to establish a relationship between the sociologist and the person that he is; between the role and the man performing it. In other words, he stresses the aspect of self-awareness in a sociologist to understand critically for himself his existential role, his social praxis a nd his commitment to the society of which he is a part.

Although these are some symptoms of a new phase in sociology yet they certainly call forth a new set of roles for a sociologist of a new generation. In the end, it needs to be re- iterated that the aforementioned notes of caution and perspectives of relevance must be embodied into the guidelines of setting the new role for a sociologist in India today.

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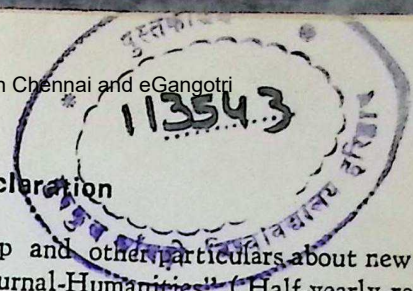

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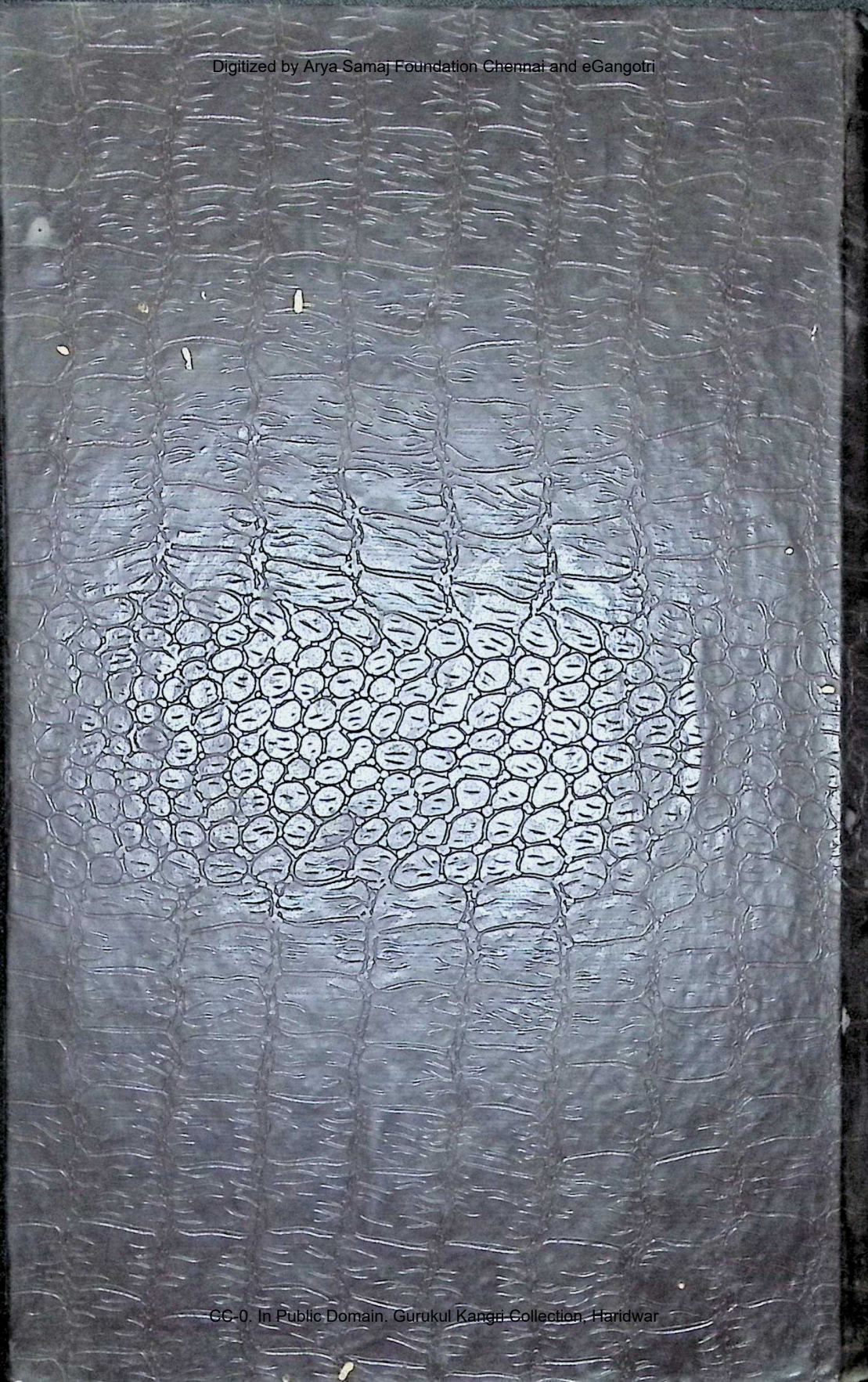

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